

Section 1302, Pub. L. 88-210, title I, §142, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080; amended Pub. L. 92-318, title II, §203, June 23, 1972, 86 Stat. 325; Pub. L. 94-482, title II, §201(g), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for exemplary programs and projects in vocational education.

Section 1303, Pub. L. 88-210, title I, §143, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1081, set forth authorized purposes for uses of funds for grants and contracts for exemplary programs and projects in vocational education.

Section 1304, Pub. L. 88-210, title I, §144, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, authorized payments for amounts expended by applicants for grants and contracts for exemplary programs and projects in vocational education.

Section 1305, Pub. L. 88-210, title I, §145, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, limited duration of assistance for exemplary programs and projects in vocational education.

Section 1321, Pub. L. 88-210, title I, §151, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082; amended Pub. L. 92-318, title II, §204(a), June 23, 1972, 86 Stat. 326; Pub. L. 94-482, title II, §201(h), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of demonstration schools for residential vocational education programs.

Section 1322, Pub. L. 88-210, title I, §152, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1083; amended Pub. L. 91-230, title VII, §704(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92-318, title II, §204(b), June 23, 1972, 86 Stat. 326; Pub. L. 94-482, title II, §201(i), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for State programs for residential vocational education facilities.

Section 1323, Pub. L. 88-210, title I, §153, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1084; amended Pub. L. 91-230, title VII, §704(b), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92-318, title II, §204(c), June 23, 1972, 86 Stat. 326; Pub. L. 94-482, title II, §201(j), Oct. 12, 1976, 90 Stat. 2168, authorized grants for the reduction of borrowing costs for construction of schools and dormitories for residential vocational education programs.

Section 1341, Pub. L. 88-210, title I, §161, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1085; amended Pub. L. 91-230, title VII, §705, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92-318, title II, §205, June 23, 1972, 86 Stat. 326; Pub. L. 94-135, title II, §204, Nov. 28, 1975, 89 Stat. 727; Pub. L. 94-482, title II, §201(k), (l), Oct. 12, 1976, 90 Stat. 2168, set forth authorization and funding provisions for consumer and homemaking education programs.

Section 1351, Pub. L. 88-210, title I, §171, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086, set forth Congressional findings and declaration of purpose for cooperative vocational education programs.

Section 1352, Pub. L. 88-210, title I, §172, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086; amended Pub. L. 92-318, title II, §206, June 23, 1972, 86 Stat. 326; Pub. L. 94-482, title II, §201(m), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for cooperative vocational education programs.

Section 1353, Pub. L. 88-210, title I, §173, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, set forth requirements of State plan for participation in cooperative vocational education program funding.

Section 1354, Pub. L. 88-210, title I, §174, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, limited use of funds for cooperative vocational education programs.

Section 1355, Pub. L. 88-210, title I, §175, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, defined "cooperative work-study program".

Section 1371, Pub. L. 88-210, title I, §181, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088; amended Pub. L. 91-230, title VII, §706(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92-318, title II, §207, June 23, 1972, 86 Stat. 326; Pub. L. 94-482, title II, §201(n), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for work-study programs for vocational education students.

Section 1372, Pub. L. 88-210, title I, §182, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088, set forth requirements of State plan for participation in student work-study program funding.

Section 1373, Pub. L. 88-210, title I, §183, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1089; amended Pub. L. 91-230, title VII, §706(b), Apr. 13, 1970, 84 Stat. 189, authorized manner of payments for State work-study programs for vocational education students.

Section 1374, Pub. L. 88-210, title I, §184, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090, set forth status of participants in work-study programs.

Section 1391, Pub. L. 88-210, title I, §189, formerly §191, as added Pub. L. 90-576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090; amended Pub. L. 91-230, title VII, §707, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92-318, title II, §208, June 23, 1972, 86 Stat. 326; renumbered Pub. L. 93-380, title VIII, §841(a)(6), Aug. 21, 1974, 88 Stat. 607; amended Pub. L. 94-482, title II, §201(o), Oct. 12, 1976, 90 Stat. 2169, set forth requirements for curriculum development programs in vocational and technical education and authorized funding for such programs.

Section 1393, Pub. L. 88-210, title I, §191, as added Pub. L. 93-380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 607, set forth congressional findings for establishment of bilingual vocational training programs.

Section 1393a, Pub. L. 88-210, title I, §192, as added Pub. L. 93-380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set out general responsibilities of Commissioner and Secretary of Labor in administering bilingual vocational training programs.

Section 1393b, Pub. L. 88-210, title I, §193, as added Pub. L. 93-380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94-482, title II, §201(p), Oct. 12, 1976, 90 Stat. 2169, authorized appropriations for bilingual vocational training programs.

Section 1393c, Pub. L. 88-210, title I, §194, as added Pub. L. 93-380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94-482, title V, §501(j)(1), Oct. 12, 1976, 90 Stat. 2237, authorized grants and contracts for bilingual vocational training programs.

Section 1393d, Pub. L. 88-210, title I, §195, as added Pub. L. 93-380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set forth authorized purposes of grants and contracts for bilingual vocational training programs.

Section 1393e, Pub. L. 88-210, title I, §196, as added Pub. L. 93-380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609, set forth application requirements for grants and contracts for bilingual vocational training programs.

Section 1393f, Pub. L. 88-210, title I, §197, as added Pub. L. 93-380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609; amended Pub. L. 94-482, title V, §501(j)(2), Oct. 12, 1976, 90 Stat. 2237, set forth criteria for approval by Commissioner of applications for grants and contracts for bilingual vocational training programs.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1141, 1203a, 1206a, 2321, 2323, 3441, 4356, 6062, 6143, 6314, 6365, 6493, 6645, 6648, 6649, 7426, 7703, 8921, 8923 of this title; title 5 section 5924; title 10 section 2164; title 25 sections 2503, 2504; title 29 sections 721, 1533, 1645, 2618; title 42 sections 290ff-2, 290ff-4, 300x-1, 1760, 1769h, 6024, 9855d.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1491n of this title.

§ 1400. Congressional statements and declarations

(a) Short title

This chapter may be cited as the “Individuals with Disabilities Education Act”.

(b) Findings

The Congress finds that—

(1) there are more than eight million children with disabilities in the United States today;

(2) the special educational needs of such children are not being fully met;

(3) more than half of the children with disabilities in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

(4) one million of the children with disabilities in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

(5) there are many children with disabilities throughout the United States participating in regular school programs whose disabilities prevent them from having a successful educational experience because their disabilities are undetected;

(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of children with disabilities;

(8) State and local educational agencies have a responsibility to provide education for all children with disabilities, but present financial resources are inadequate to meet the special educational needs of children with disabilities; and

(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of children with disabilities in order to assure equal protection of the law.

(c) Purpose

It is the purpose of this chapter to assure that all children with disabilities have available to them, within the time periods specified in section 1412(2)(B) of this title, a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.

(Pub. L. 91-230, title VI, §601, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94-142, §3, Nov. 29, 1975, 89 Stat. 774; Pub. L. 101-476, title IX, §901(a)(1), (b)(1)-(9), Oct. 30, 1990, 104 Stat. 1141, 1142; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act” and has been translated throughout this chapter as reading “this title”, meaning title VI of

Pub. L. 91-230, as amended, popularly known as the “Individuals with Disabilities Education Act”, to reflect the probable intent of Congress.

CODIFICATION

This section was formerly classified as a note under section 1401 of this title.

PRIOR PROVISIONS

A prior Education of the Handicapped Act, Pub. L. 89-10, title VI, as added Pub. L. 89-750, title I, §161, Nov. 3, 1966, 80 Stat. 1204, and amended, was classified generally to subchapter IV (§871 et seq.) of chapter 24 of this title, prior to repeal by Pub. L. 91-230, title VI, §662(3), Apr. 13, 1970, 84 Stat. 188.

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, requiring no change in text.

Subsec. (a). Pub. L. 101-476, §901(a)(1), substituted “Individuals with Disabilities Education Act” for “Education of the Handicapped Act”.

Subsec. (b)(1), (3), (4). Pub. L. 101-476, §901(b)(1)-(3), substituted “children with disabilities” for “handicapped children”.

Subsec. (b)(5). Pub. L. 101-476, §901(b)(4), (5), substituted “children with disabilities” for “handicapped children” and substituted “disabilities” for “handicaps” in two places.

Subsecs. (b)(7) to (9), (c). Pub. L. 101-476, §901(b)(6)-(9), substituted “children with disabilities” for “handicapped children” wherever appearing.

1975—Pub. L. 94-142 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-142 effective Nov. 29, 1975, see section 8(b) of Pub. L. 94-142, set out as a note under section 1411 of this title.

SHORT TITLE OF 1991 AMENDMENT

Section 1 of Pub. L. 102-119 provided that: “This Act [see Tables for classification] may be cited as the ‘Individuals with Disabilities Education Act Amendments of 1991’.”

SHORT TITLE OF 1990 AMENDMENT

Section 1(a) of Pub. L. 101-476 provided that: “This Act [see Tables for classification] may be cited as the ‘Education of the Handicapped Act Amendments of 1990’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-630, §1, Nov. 7, 1988, 102 Stat. 3289, provided that: “This Act [amending sections 101, 1401, 1404, 1406, 1407, 1411 to 1419, 1421 to 1425, 1431 to 1433, 1441, 1443, 1451, 1452, 1461, 1471, 1472, and 1475 to 1482 of this title, sections 702, 705, 706, 709, 711, 713, 717, 720 to 723, 731, 732, 740, 741, 750, 752, 761 to 762, 770, 772, 774 to 776, 777 to 777b, 777d, 777f, 780, 781 to 783, 791 to 794, 794b, 794d, 795a, 795g to 795i, 795l to 795n, 795q, 796a to 796g, 796i, and 1904 of Title 29, Labor, and section 155 of Title 36, Patriotic Societies and Observances, enacting provisions set out as notes under sections 101, 1419, and 1432 of this title and sections 731 and 777c of Title 29, and repealing provisions set out as a note under section 795m of Title 29] may be cited as the ‘Handicapped Programs Technical Amendments Act of 1988’.”

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99-457, §1(a), Oct. 8, 1986, 100 Stat. 1145, provided that: “This Act [enacting sections 1408, 1461, 1462,

and 1471 to 1485 of this title, amending sections 1401, 1406, 1411 to 1413, 1418, 1419, 1421 to 1424, 1424a, 1425, 1427, 1431 to 1433, 1435, 1441, 1443, 1444, 1452, and 1454 of this title, repealing sections 1403 and 1453 of this title, and enacting provisions set out as notes under sections 1419 and 1485 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1986'."

Pub. L. 99-372, § 1, Aug. 5, 1986, 100 Stat. 796, provided that: "This Act [amending section 1415 of this title and enacting provisions set out as notes under section 1415 of this title] may be cited as the 'Handicapped Children's Protection Act of 1986'."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-199, § 1, Dec. 2, 1983, 97 Stat. 1357, provided: "That this Act [enacting sections 1407 and 1427 of this title, amending sections 1401 to 1404, 1406, 1411 to 1414, 1416 to 1426, 1431 to 1435, 1441 to 1444, 1452, 1454, and 1461 of this title, repealing section 1461 of this title, omitting section 1436 of this title, enacting a provision set out as a note under section 1401 of this title, and amending provisions set out as notes under sections 101, 681, and 1411 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1983'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-49, § 1, June 17, 1977, 91 Stat. 230, provided: "That this Act [amending sections 1426, 1436, 1441, 1444, and 1454 of this title, and enacting provisions set out as a note under section 1426 of this title] may be cited as the 'Education of the Handicapped Amendments of 1977'."

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94-142 provided: "That this Act [enacting sections 1405, 1406, 1415, 1416, 1417, 1418, 1419, and 1420 of this title, amending this section and sections 1232, 1401, 1411, 1411 notes, 1412, 1412 note, 1413, 1413 note, 1414, and 1453 of this title, and enacting provisions set out as a note under section 1411 of this title] may be cited as the 'Education for All Handicapped Children Act of 1975'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-380, title VI, § 611, Aug. 21, 1974, 88 Stat. 579, provided that: "This title [enacting section 1424a of this title, amending sections 1402, 1403, 1411 to 1413, 1426, 1436, 1444, 1452, 1454, and 1461 of this title, and enacting provisions set out as notes under sections 1402 and 1411 to 1413 of this title] may be cited as the 'Education of the Handicapped Amendments of 1974'."

REFERENCES TO EDUCATION OF THE HANDICAPPED ACT

Section 901(a)(3) of Pub. L. 101-476 provided that: "Any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1411 of this title.

§ 1401. Definitions

(a) As used in this chapter—

(1)(A) The term "children with disabilities" means children—

- (i) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
- (ii) who, by reason thereof, need special education and related services.

(B) The term "children with disabilities" for children aged 3 to 5, inclusive, may, at a State's discretion, include children—

- (i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
- (ii) who, by reason thereof, need special education and related services.

(2) Repealed. Pub. L. 98-199, § 2(2), Dec. 2, 1983, 97 Stat. 1357.

(3) Repealed. Pub. L. 100-630, title I, § 101(a)(2), Nov. 7, 1988, 102 Stat. 3289.

(4) The term "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this chapter; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 1931(a) of title 48).

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) The term “elementary school” means a day or residential school which provides elementary education, as determined under State law.

(10) The term “secondary school” means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) The term “institution of higher education” means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of education or training offered.

The term includes community colleges receiving funding from the Secretary of the Interior

under the Tribally Controlled Community College Assistance Act of 1978 [20 U.S.C. 1801 et seq.].

(12) The term “nonprofit” as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term “research and related purposes” means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of children with disabilities, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.

(14) The term “Secretary” means the Secretary of Education.

(15) The term “children with specific learning disabilities” means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(16) The term “special education” means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(17) The term “related services” means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(18) The term “free appropriate public education” means special education and related services that—

(A) have been provided at public expense, under public supervision and direction, and without charge,

(B) meet the standards of the State educational agency,

(C) include an appropriate preschool, elementary, or secondary school education in the State involved, and

(D) are provided in conformity with the individualized education program required under section 1414(a)(5) of this title.

(19) The term “transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student’s needs, taking into account the student’s preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(20) The term “individualized education program” means a written statement for each child with a disability developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include—

(A) a statement of the present levels of educational performance of such child,

(B) a statement of annual goals, including short-term instructional objectives,

(C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs,

(D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the inter-agency responsibilities¹ or linkages (or both) before the student leaves the school setting,

(E) the projected date for initiation and anticipated duration of such services, and

(F) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.

(21) The term “excess costs” means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under this subchapter,

(ii) under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], or

(iii) under title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7401 et seq.], and

(B) any State or local funds expended for programs that would qualify for assistance under such subchapter, chapter, or title.

(22) The term “native language” has the meaning given that term by section 7003(a)(2)² of the Bilingual Education Act.

(23) The term “intermediate educational unit” means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to children with disabilities within that State.

(24)(A) The term “public or private nonprofit agency or organization” includes an Indian tribe and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior.

(B) The terms “Indian”, “American Indian”, and “Indian American” mean an individual who is a member of an Indian tribe.

(C) The term “Indian tribe” means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]).

(25) The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(26) The term “assistive technology service” means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual’s customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated

¹ So in original. Probably should be “responsibilities”.

² See References in Text note below.

with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(27) The term “underrepresented” means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.

(b) For purposes of subchapter III of this chapter, “youth with a disability” means any child with a disability (as defined in subsection (a)(1) of this section) who—

(1) is twelve years of age or older; or

(2) is enrolled in the seventh or higher grade in school.

(Pub. L. 91-230, title VI, §602, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94-142, §4(a), Nov. 29, 1975, 89 Stat. 775; Pub. L. 98-199, §§2, 3(b), Dec. 2, 1983, 97 Stat. 1357, 1358; Pub. L. 99-457, title IV, §402, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100-630, title I, §101(a), Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101-476, title I, §101, title IX, §901(b)(10)-(20), Oct. 30, 1990, 104 Stat. 1103, 1142, 1143; Pub. L. 102-73, title VIII, §802(d)(1), July 25, 1991, 105 Stat. 361; Pub. L. 102-119, §§3, 25(a)(1), (b), Oct. 7, 1991, 105 Stat. 587, 605, 607; Pub. L. 103-382, title III, §391(f)(1), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(6), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

The Tribally Controlled Community College Assistance Act of 1978, referred to in subsec. (a)(11), is Pub. L. 95-471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(21)(A)(ii) and (iii), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. Titles I and VII of the Act are classified generally to subchapters I (§6301 et seq.) and VII (§7401 et seq.), respectively, of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 7003(a)(2) of the Bilingual Education Act, referred to in subsec. (a)(22), is section 7003(a)(2) of Pub. L. 89-10, title VII, as added by Pub. L. 100-297, title I, §1001, Apr. 28, 1988, 102 Stat. 276, as amended, which was classified to section 3283(a)(2) of this title prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. For provisions defining “native language”, see section 7601(11) of this title.

The Alaska Native Claims Settlement Act, referred to in subsec. (a)(24)(C), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1994—Subsec. (a)(21)(A)(ii). Pub. L. 103-382 substituted “title I” for “chapter 1 of title I”.

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102-119, §25(a)(1)(A), inserted comma after “thereof” in subpar. (A)(ii).

Pub. L. 102-119, §3, designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

Subsec. (a)(6). Pub. L. 102-73, which directed the substitution of “or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 1931(a) of title 48)” for “or the Trust Territory of the Pacific Islands” in section 602(a)(6) of the “Education of the Handicapped Act”, was executed to this section, which is section 602 of the Individuals with Disabilities Education Act, to reflect the probable intent of Congress, and the corresponding change in the Short Title of that Act. See section 1400(a) of this title.

Subsec. (a)(17). Pub. L. 102-119, §25(a)(1)(B), substituted “, social work services, counseling services, including rehabilitation counseling, and medical services,” for “and social work services, and medical and counseling services, including rehabilitation counseling,” and was executed by making the substitution for the quoted words which in the original contained two commas after “counseling services”, to reflect the probable intent of Congress.

Subsec. (a)(22). Pub. L. 102-119, §25(a)(1)(C), substituted “section 7003(a)(2)” for “section 703(a)(2)”.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, §25(b), requiring no change in text.

Subsec. (a)(1). Pub. L. 101-476, §901(b)(10), which directed substitution of “children with disabilities” for “handicapped children”, could not be executed because “handicapped children” did not appear following general amendment by Pub. L. 101-476, §101(a). See below.

Pub. L. 101-476, §101(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘handicapped children’ means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities, who by reason thereof require special education and related services.”

Subsec. (a)(13). Pub. L. 101-476, §901(b)(11), substituted “children with disabilities” for “handicapped children”.

Subsec. (a)(15). Pub. L. 101-476, §901(b)(12), substituted “perceptual disabilities” for “perceptual handicaps” and “motor disabilities” for “motor handicaps”.

Subsec. (a)(16). Pub. L. 101-476, §901(b)(13), substituted “child with a disability” for “handicapped child”.

Pub. L. 101-476, §101(b), substituted “including—

“(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

“(B) instruction in physical education”

for “including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions”.

Subsec. (a)(17). Pub. L. 101-476, §901(b)(14), (15), substituted “child with a disability” for “handicapped child” and “disabling” for “handicapping”.

Pub. L. 101-476, §101(c), inserted “including therapeutic recreation and social work services,” after “recreation,” and “, including rehabilitation counseling,” after “counseling services,”.

Subsec. (a)(19). Pub. L. 101-476, §101(d), added par. (19). Former par. (19) redesignated (20).

Subsec. (a)(20). Pub. L. 101-476, §901(b)(16), (17), which directed the substitution of “child with a disability” for “handicapped child” and “children with disabilities” for “handicapped children” in par. (19), was executed by making the substitutions in par. (20) to reflect

the probable intent of Congress and the intervening redesignation of par. (19) as (20) by Pub. L. 101-476, §101(d). See below.

Pub. L. 101-476, §101(d), (e), redesignated par. (19) as (20), added subpar. (D), redesignated former subpars. (D) and (E) as (E) and (F), respectively, and inserted after subpar. (F) "In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives." Former par. (20) redesignated (21).

Subsec. (a)(21), (22). Pub. L. 101-476, §101(d), redesignated pars. (20) and (21) as (21) and (22), respectively. Former par. (22) redesignated (23).

Subsec. (a)(23). Pub. L. 101-476, §901(b)(18), which directed the substitution of "children with disabilities" for "handicapped children" in par. (22), was executed by making the substitution in par. (23) to reflect the probable intent of Congress and the intervening redesignation of par. (22) as (23) by Pub. L. 101-476, §101(d). See below.

Pub. L. 101-476, §101(d), redesignated par. (22) as (23). Former par. (23) redesignated (24).

Subsec. (a)(24). Pub. L. 101-476, §101(d), (f), redesignated par. (23) as (24) and inserted before period at end of subpar. (A) "and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior".

Subsec. (a)(25) to (27). Pub. L. 101-476, §101(g)-(i), added pars. (25) to (27).

Subsec. (b). Pub. L. 101-476, §901(b)(19), (20), substituted "youth with a disability" for "handicapped youth" and "child with a disability" for "handicapped child".

1988—Subsec. (a). Pub. L. 100-630, §101(a)(1), realigned margins of all pars.

Subsec. (a)(3). Pub. L. 100-630, §101(a)(2), struck out par. (3) which read as follows: "The term 'Advisory Committee' means the National Advisory Committee on the Education of Handicapped Children."

Subsec. (a)(6). Pub. L. 100-630, §101(a)(3), substituted "Commonwealth of the Northern Mariana Islands" for "Northern Mariana Islands".

Subsec. (a)(11). Pub. L. 100-630, §101(a)(4), (5), realigned margins of subpars. (A) to (E), in subpar. (D) inserted "and" after "other nonprofit institution"; in subpar. (E) substituted "the Secretary shall appoint" for "he shall appoint", "which the Secretary determines" for "which he determines", and a period for "; and", struck out subpar. (F) which related to community colleges receiving funding from Secretary of the Interior under Public Law 95-471, and inserted at end "The term includes community colleges receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978."

Subsec. (a)(18). Pub. L. 100-630, §101(a)(6), substituted "services that—" for "services which", added subpars. (A) to (D), and struck out cls. (A) to (D) which read as follows: "(A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 1414(a)(5) of this title."

Subsec. (a)(19). Pub. L. 100-630, §101(a)(7), substituted "statement shall include—" for "statement shall include", added subpars. (A) to (E), and struck out cls. (A) to (E) which read as follows: "(A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the

projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved."

Subsec. (a)(20). Pub. L. 100-630, §101(a)(8), substituted "after deducting—" for "after deducting", added subpars. (A) and (B), and struck out former subpars. (A) and (B) which read as follows: "(A) amounts received under this subchapter or under title I or title VII of the Elementary and Secondary Education Act of 1965, and (B) any State or local funds expended for programs which would qualify for assistance under this subchapter or under such titles."

Subsec. (a)(21). Pub. L. 100-630, §101(a)(9), made technical amendment to reference to section 703(a)(2) of the Bilingual Education Act to delete an obsolete United States Code citation, requiring no change in text.

Subsec. (a)(23). Pub. L. 100-630, §101(a)(10), realigned margins of subpars. (A) to (C).

Subsec. (b). Pub. L. 100-630, §101(a)(11), made technical amendment to reference to subsection (a)(1) of this section, requiring no change in text.

1986—Subsec. (a)(11)(F). Pub. L. 99-457, §402(1), added subpar. (F).

Subsec. (a)(23). Pub. L. 99-457, §402(2), added par. (23).

1983—Subsec. (a). Pub. L. 98-199, §2(6), designated existing provisions as subsec. (a).

Subsec. (a)(1). Pub. L. 98-199, §2(1), included language impaired children within term "handicapped children".

Subsec. (a)(2). Pub. L. 98-199, §2(2), struck out definition of "Commissioner" as meaning the Commissioner of Education.

Subsec. (a)(3). Pub. L. 98-199, §2(3), inserted "the Education of" after "Committee on".

Subsec. (a)(6). Pub. L. 98-199, §2(4), included the Northern Mariana Islands within term "State".

Subsec. (a)(11)(E). Pub. L. 98-199, §3(b), substituted "Secretary" for "Commissioner" wherever appearing.

Subsec. (a)(14). Pub. L. 98-199, §2(5), substituted "Secretary of Education" for "Secretary of Health, Education, and Welfare".

Subsec. (b). Pub. L. 98-199, §2(7), added subsec. (b).

1975—Par. (1). Pub. L. 94-142, §4(a)(1), substituted "orthopedically impaired" for "crippled" and inserted reference to children with specific learning disabilities.

Par. (5). Pub. L. 94-142, §4(a)(2), inserted reference to telecommunications, sensory, and other technological aids and devices.

Par. (15). Pub. L. 94-142, §4(a)(3), added children with learning problems which are primarily the result of cultural or economic disadvantage to the enumeration of children not to be included within term "children with specific learning disabilities".

Pars. (16) to (22). Pub. L. 94-142, §4(a)(4), added pars. (16) to (22).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 18 of Pub. L. 98-199, as amended by Pub. L. 101-476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that:

"(a) Except as provided in subsection (b), the provisions of this Act [enacting sections 1407 and 1427 of this title, amending this section and sections 1402 to 1404, 1406, 1411 to 1414, 1416 to 1426, 1431 to 1435, 1441 to 1444, 1452, 1454, and 1461 of this title; repealing section 1461 of this title; omitting section 1436 of this title; enacting a provision set out as a note under section 1400 of this title; and amending provisions set out as notes under sections 101, 681, and 1411 of this title] shall take effect on the date of enactment of this Act [Dec. 2, 1983].

"(b)(1) To the extent that the amendments made by this Act to parts C, D, E, and G of the Individuals with Disabilities Education Act [subchapters III, IV, V and

VII of this chapter] prohibit or limit the use of funds, such amendments shall apply only to funds obligated after the date of enactment of this Act [Dec. 2, 1983].

“(2) As determined necessary by the Secretary of Education for purposes of providing services under the Individuals with Disabilities Education Act [this chapter] pending the issuance of regulations implementing the amendments made by this Act, the Secretary shall provide financial assistance under parts C, D, E, and G of the Act as in effect on the day before the date of enactment of this Act until issuance of such regulations or March 1, 1984, whichever is earlier.”

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-142 effective Oct. 1, 1977, see section 8(c) of Pub. L. 94-142, set out as a note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087ee, 1087ii, 1415, 1425, 5802, 6063, 6103, 8801, 8923 of this title; title 10 section 2164; title 42 sections 290ff-2, 1396n, 5116, 5117c, 9835, 12511.

§ 1402. Office of Special Education Programs

(a) Establishment; purposes

There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs which shall be the principal agency in the Department for administering and carrying out this chapter and other programs and activities concerning the education and training of individuals with disabilities.

(b) Deputy Assistant Secretary: selection and supervision; compensation; Associate Deputy Assistant Secretary and minimum number of assistants: establishment, compensation

(1) The office established under subsection (a) of this section shall be headed by a Deputy Assistant Secretary who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. The position of Deputy Assistant Secretary shall be in grade GS-18 of the General Schedule under section 5104 of title 5, and shall be a Senior Executive Service position for the purposes of section 3132(a)(2) of such title.

(2) In addition to such Deputy Assistant Secretary, there shall be established in such office not less than six positions for persons to assist the Deputy Assistant Secretary, including the position of the Associate Deputy Assistant Secretary. Each such position shall be in grade GS-15 of the General Schedule under section 5104 of title 5.

(Pub. L. 91-230, title VI, § 603, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, § 612(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 98-199, § 3(a), Dec. 2, 1983, 97 Stat. 1357; Pub. L. 101-476, title IX, § 901(b)(21), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102-119, § 25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

1990—Subsec. (a). Pub. L. 101-476, as amended by Pub. L. 102-119, substituted “individuals with disabilities” for “the handicapped”.

1983—Pub. L. 98-199 substituted provisions respecting establishment of Office of Special Education Programs

within the Office of Special Education and Rehabilitative Services in the Department of Education, including executive personnel thereof for provisions designating a bureau for education and training of handicapped within the Office of Education, including executive personnel consisting of a Deputy Commissioner of Education, appointed and supervised by the Commissioner, and an Associate Deputy Commissioner and four assistantships, and providing for compensation of such personnel under the General Schedule.

1974—Pub. L. 93-380 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 612(b)(2) of Pub. L. 93-380 provided that: “The amendments made by subsection (a) [amending this section] shall become effective upon the enactment of this Act [Aug. 21, 1974].”

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

DEPUTY COMMISSIONER AND ASSOCIATE DEPUTY COMMISSIONER OF EDUCATION AND OTHER ASSISTANTS; ADDITIONAL POSITIONS

Section 612(b)(1) of Pub. L. 93-380, as amended by Pub. L. 94-482, title V, § 501(a)(11), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 101-476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: “The positions created by subsection (b) of section 603 of the Individuals with Disabilities Education Act [subsec. (b) of this section] shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code and such positions shall be in addition to, and without prejudice against, the number of positions otherwise placed in the Office of Education [now Department of Education] under such section 5108 or under other law. Nothing in this section shall be deemed as limiting the Commissioner [now Secretary of Education] from assigning additional General Schedule positions in grades 16, 17, and 18 to the Bureau should he determine such additions to be necessary to operate programs for educating handicapped children authorized by this Act [see Short Title note for Pub. L. 93-380, set out under section 6301 of this title].”

[Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date note under section 1221-1 of this title.]

§ 1403. Abrogation of State sovereign immunity

(a) State immunity abrogated

A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.

(b) Availability of remedies

In a suit against a State for a violation of this chapter, remedies (including remedies both at

law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public entity other than a State.

(c) Effective date

The provisions of subsections (a) and (b) of this section shall take effect with respect to violations that occur in whole or part after October 30, 1990.

(Pub. L. 91-230, title VI, §604, as added Pub. L. 101-476, title I, §103, Oct. 30, 1990, 104 Stat. 1106.)

PRIOR PROVISIONS

A prior section 1403, Pub. L. 91-230, title VI, §604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, §613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94-273, §§3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 98-199, §4, Dec. 2, 1983, 97 Stat. 1358, established the National Advisory Committee on the Education of Handicapped Children and Youth, prior to repeal by Pub. L. 99-457, title IV, §407, Oct. 8, 1986, 100 Stat. 1177.

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as an Effective Date of 1990 Amendment note under section 1087ee of this title.

§ 1404. Acquisition of equipment and construction of necessary facilities

(a) Authorization for use of funds

In the case of any program authorized by this chapter, if the Secretary determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition of equipment and the construction of necessary facilities, the Secretary may authorize the use of such funds for such purposes.

(b) Recovery of payments under certain conditions

If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this chapter, the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(Pub. L. 91-230, title VI, §605, Apr. 13, 1970, 84 Stat. 177; Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, §101(b), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 102-119, §25(a)(2), Oct. 7, 1991, 105 Stat. 605.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-119 inserted comma after “under this chapter” in first sentence.

1988—Subsec. (a). Pub. L. 100-630, §101(b)(1), substituted “the Secretary may authorize” for “he may authorize”.

Subsec. (b). Pub. L. 100-630, §101(b)(2), inserted a comma after “If”.

1983—Subsec. (a). Pub. L. 98-199 substituted “Secretary” for “Commissioner”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

§ 1405. Employment of individuals with disabilities

The Secretary shall assure that each recipient of assistance under this chapter shall make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this chapter.

(Pub. L. 91-230, title VI, §606, as added Pub. L. 94-142, §6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 101-476, title IX, §901(b)(22), (23), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

1990—Pub. L. 101-476, as amended by Pub. L. 102-119, substituted “individuals with disabilities” for “handicapped individuals” in section catchline and text.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE

Section effective Nov. 29, 1975, see section 8(b) of Pub. L. 94-142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

§ 1406. Grants for removal of architectural barriers; authorization of appropriations

(a) The Secretary is authorized to make grants and to enter into cooperative agreements with the Secretary of the Interior and with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act entitled “An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 [42 U.S.C. 4151 et seq.].

(b) For the purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 91-230, title VI, §607, as added Pub. L. 94-142, §6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 98-199, §§3(b), 5, Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99-457, title IV, §401, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100-630, title I, §101(c), Nov. 7, 1988, 102 Stat. 3290.)

REFERENCES IN TEXT

The Act entitled “An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968, referred to in subsec. (a), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718,

as amended, which is popularly known as the Architectural Barriers Act of 1968. The Act is classified generally to chapter 51 (§4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-630 substituted “the Act entitled ‘An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped’, approved August 12, 1968.” for “the Act approved August 12, 1968 (Public Law 90-480), relating to architectural barriers”.

1986—Subsec. (a). Pub. L. 99-457 inserted “with the Secretary of the Interior and” after “cooperative agreements”.

1983—Subsec. (a). Pub. L. 98-199, §5, amended subsec. (a) generally, substituting provisions authorizing the Secretary to make grants and to enter into cooperative agreements with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units in accordance with standards promulgated under Pub. L. 90-480 for provisions authorizing the Secretary to make grants, upon application by any State or local educational agency or intermediate educational unit, in the same manner and same extent as authorized by Pub. L. 90-480.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner”.

Subsec. (b). Pub. L. 98-199, §5, reenacted subsec. (b) without change.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE

Section effective Nov. 29, 1975, see section 8(b) of Pub. L. 94-142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

§ 1407. Regulation requirements

(a) Minimum period for comment before effective date

For purposes of complying with section 1232(b)¹ of this title with respect to regulations promulgated under subchapter II of this chapter, the thirty-day period under such section shall be ninety days.

(b) Lessening of procedural or substantive protections as in effect on July 20, 1983, prohibited

The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this chapter which would procedurally or substantively lessen the protections provided to children with disabilities under this chapter, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines,² attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(Pub. L. 91-230, title VI, §608, as added Pub. L. 98-199, §6, Dec. 2, 1983, 97 Stat. 1359; amended

Pub. L. 100-630, title I, §101(d), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101-476, title IX, §901(b)(24), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

REFERENCES IN TEXT

Section 1232(b) of this title, referred to in subsec. (a), was in the original a reference to section 431(b) of the General Education Provisions Act. Sections 422 and 431 of that Act were renumbered as sections 431 and 437, respectively, by Pub. L. 103-382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231a and 1232, respectively, of this title.

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

1990—Subsec. (b). Pub. L. 101-476, as amended by Pub. L. 102-119, substituted “children with disabilities” for “handicapped children”.

1988—Subsec. (b). Pub. L. 100-630, §101(d)(1), substituted “individualized education program” for “IEP”.

Subsec. (c). Pub. L. 100-630, §101(d)(2), struck out subsec. (c) which read as follows: “The Secretary shall transmit a copy of any regulations promulgated under this chapter to the National Advisory Committee on the Education of the Handicapped concurrently with publication in the Federal Register.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE

Section effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as an Effective Date of 1983 Amendment note under section 1401 of this title.

§ 1408. Eligibility for financial assistance

Effective for fiscal years for which the Secretary may make grants under section 1419(b)(1) of this title, no State or local educational agency or intermediate educational unit or other public institution or agency may receive a grant under subchapters III through VII of this chapter which relate exclusively to programs, projects, and activities pertaining to children aged three to five, inclusive, unless the State is eligible to receive a grant under section 1419(b)(1) of this title.

(Pub. L. 91-230, title VI, §609, as added Pub. L. 99-457, title II, §202, Oct. 8, 1986, 100 Stat. 1158.)

§ 1409. Administrative provisions applicable to subchapters III through VII and section 1418

(a) Plan for implementation of authorized programs

The Secretary shall maintain a process for developing a program plan for the implementation of each of the programs authorized under section 1418 of this title and subchapters III through VII of this chapter. The plan shall include program goals, objectives, strategies, and priorities. In conducting the process, the Secretary shall involve individuals with disabilities, parents, professionals, and representatives of State and local educational agencies, private schools, institutions of higher education, and national organizations who have interest and expertise in the program.

(b) Needs of minority children and youth

In awarding grants, contracts, and cooperative agreements under subchapters III through VII of

¹ See References in Text note below.

² So in original. Probably should be “timeliness.”

this chapter, the Secretary, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds.

(c) Transitions facing children with disabilities during years in school

In awarding grants, contracts, or cooperative agreements under subchapters III through VII of this chapter the Secretary, where appropriate, may require applicants to address the various transitions that a child with a disability may face throughout such child's years in school, including—

(1) the transition from medical care to special education for those children with disabilities, including chronic health impairments, who may require individualized health-related services to enable such children to participate in, or benefit from, special education;

(2) the transition between residential placement and community-based special education services; and

(3) the transition between a separate educational placement and the regular classroom setting.

(d) Program evaluations

The Secretary shall conduct directly, or by contract or cooperative agreement with appropriate entities, independent evaluations of the programs authorized under section 1418 of this title and under subchapters III through VII of this chapter, and may for such purpose use funds appropriated to carry out such provisions. The findings of the evaluators shall be utilized in the planning process under subsection (a) of this section for the purpose of improving the programs. The evaluations shall determine the degree to which the program is being conducted consistent with the program plan and meeting its goals and objectives. The Secretary shall submit to the appropriate committees of the Congress the results of the evaluations required by this subsection.

(e) Report on program plans and evaluations

The Secretary shall report on the program plans required in subsection (a) of this section and findings from the evaluations under subsection (d) of this section in the annual report to the Congress required under section 1418 of this title.

(f) Acquisition and dissemination of information

The Secretary shall develop effective procedures for acquiring and disseminating information derived from programs and projects funded under subchapters III through VII of this chapter, as well as information generated from studies conducted and data collected under section 1418 of this title.

(g) Dissemination of reports to appropriate networks

The Secretary shall, where appropriate, require recipients of all grants, contracts, and cooperative agreements under subchapters III through VII of this chapter to prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of such proce-

dures, findings, and information. The Secretary shall require their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Programs (TAPP) assisted under subchapters III and IV of this chapter, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and such other networks as the Secretary may determine to be appropriate.

(h) Evaluation panels

(1) The Secretary shall convene, in accordance with paragraph (2), panels of experts who are competent, by virtue of their training or experience, to evaluate proposals under section 1418 of this title and subchapters III through VII of this chapter.

(2) Panels under paragraph (1) shall be composed of individuals with disabilities, parents of such individuals, individuals from the fields of special education, related services, and other relevant disciplines.

(3) The Secretary shall convene panels under paragraph (1) for any application that includes a total funding request exceeding \$60,000 and may convene or otherwise appoint panels for applications that include funding requests that are less than such amount.

(4) Panels under paragraph (1) shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department of Education and shall be provided consultant fees at such a rate.

(5) The Secretary may use funds available under section 1418 of this title and subchapters III through VII of this chapter to pay expenses and fees of non-Federal members of the panels.

(i) Site visits

The Secretary shall conduct at least 1 site visit for each grant, contract, and cooperative agreement receiving \$300,000 or more annually under subchapters III through VII of this chapter.

(j) Discretionary program findings

(1) With respect to the discretionary programs authorized by subchapters III through VII of this chapter, the Congress finds as follows:

(A)(i) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(ii) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Hispanics, 14.6 percent for African-Americans, and 40.1 percent for Asians and other ethnic groups.

(iii) By the year 2000, this Nation will have 260,000,000 people, one of every three of whom

will be either African-American, Hispanic, or Asian-American.

(iv) Taken together as a group, it is a more frequent phenomenon for minorities to comprise the majority of public school students. Large city school populations are overwhelmingly minority, e.g., Miami, 71 percent; Philadelphia, 73 percent; Baltimore, 80 percent.

(v) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

(vi) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited-English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited-English proficient children in special education. The Department of Education has found that services provided to limited-English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

(B)(i) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(ii) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(iii) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

(iv) Although African-Americans represent 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

(v) The drop out rate is 68 percent higher for minorities than for whites.

(vi) More than 50 percent of minority students in large cities drop out of school.

(C)(i) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this chapter; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically Black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

(ii) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

(iii) Students from minority groups comprise more than 50 percent of K-12 public

school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

(iv) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

(v) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

(vi) As recently as 1984-85, Historically Black Colleges and Universities (HBCUs) supplied nearly half of the African-American teachers in the Nation. However, in 1988, HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training.

(vii) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

(viii) In 1986-87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

(D) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

(2) The Congress further finds that these conditions can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

(A) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

(B) This policy should focus on—

(i) the recruitment of minorities into teaching; and

(ii) financially assisting HBCUs and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

(C)(i) The Secretary shall develop a plan for providing outreach services to the entities described in clause (ii) in order to increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under any of subchapters III through VII of this chapter.

(ii) The entities referred to in clause (i) are—

(I) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

(II) eligible institutions as defined in section 1058 of this title;

(III) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

(IV) underrepresented populations.

(iii) For the purpose of implementing the plan required in clause (i), the Secretary shall, for each of the fiscal years 1991 through 1994, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out subchapters III through VII of this chapter.

(3) The Secretary shall exercise his/her utmost authority, resourcefulness, and diligence to meet the requirements of this subsection.

(4) Not later than January 31 of each year, starting with fiscal year 1991, the Secretary shall submit to Congress a final report on the progress toward meeting the goals of this subsection during the preceding fiscal year. The report shall include—

(i) a full explanation of any progress toward meeting the goals of this subsection; and

(ii) a plan to meet the goals, if necessary.

(Pub. L. 91-230, title VI, § 610, as added Pub. L. 101-476, title I, § 104, Oct. 30, 1990, 104 Stat. 1106.)

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as an Effective Date of 1990 Amendment note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1421, 1423, 1424, 1425, 1426, 1431, 1461 of this title.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 927, 1407, 1422, 1423, 1424, 1441, 1476, 1477, 1478, 1479, 1482, 1491n, 2321, 2325, 4304, 7908, 8066 of this title; title 10 section 2164; title 29 sections 721, 2211, 2231, 2243; title 42 sections 290ff-1, 290ff-2, 1396b, 12511.

§ 1411. Entitlements and allocations

(a) Formula for determining maximum State entitlement

(1) Except as provided in paragraph (5), the maximum amount of the grant for which a State is entitled under this section for any fiscal year is—

(A) the sum of—

(i) the number of children with disabilities in the State, aged 6 through 21, who are receiving special education and related services, as determined under paragraph (3); and

(ii) if the State is eligible for a grant under section 1419 of this title, the number of such children in the State, aged 3 through 5; multiplied by

(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.

(2) For the purpose of this section, the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The number of children with disabilities receiving special education and related services in any fiscal year shall be equal to number of such children receiving special education and related services on December 1 of the fiscal year preceding the fiscal year for which the determination is made.

(4) For purposes of paragraph (1)(B), the term “average per pupil expenditure”, in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for purposes of this subsection, means the fifty States and the District of Columbia), as the case may be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

(i) children with disabilities aged three to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged three to seventeen, inclusive, in such State, or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding October 20, 1994), whichever is greater, if the State serves all children with disabilities aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court, and

(ii) children with disabilities aged five to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged five to seventeen, inclusive, in such State, or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding October 20, 1994), whichever is greater, if the State does not serve all children with disabilities aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court.

(B) For purposes of subparagraph (A), the number of children aged three to seventeen, inclusive, in any State shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

(b) Minimum amount of funds to States for fiscal years 1995 to 1999

(1) Notwithstanding subsections (a) and (g) of this section, no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

(A) this section; and

(B) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on October 20, 1994) for children with disabilities aged 3 through 21.

(2) If, for fiscal year 1998 or 1999, the number of children determined under subsection (a)(3) of this section for any State is less than the total number of children with disabilities, aged 3 through 21, counted for that State's fiscal year 1994 grants under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on October 20, 1994), then the amount determined under paragraph (1) for that State shall be reduced by the same percentage by which the number of those children so declined.

(3)(A) If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraphs (1) and (2) for such year, the Secretary shall ratably reduce the allocations to such States for such year.

(B) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

(c) Distribution and use of grant funds by States for fiscal years ending September 30, 1979, and thereafter

(1) Of the funds received under subsection (a) of this section by any State for any fiscal year—

(A) a State may use not more than 25 percent of such funds in accordance with paragraph (2); and

(B) except as provided in paragraph (4), the State shall distribute at least 75 percent of such funds to local educational agencies and intermediate educational units, in accordance with subsection (d) of this section, for use in accordance with priorities established under section 1412(3) of this title.

(2)(A) From the funds that any State may use under paragraph (1)(A) for any fiscal year, the State—

(i) may use 5 percent of the funds received under this section or \$450,000, whichever is greater, for administrative costs related to carrying out sections 1412 and 1413 of this title; and

(ii) shall use the remainder—

(I) to provide support services and direct services, subject to subparagraph (B), in accordance with priorities established under section 1412(3) of this title; and

(II) for the administrative costs of monitoring and complaint investigation, but

only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.

(B) The amount expended by any State from the funds available to such State under paragraph (1)(A) in any fiscal year for the provision of support services or for the provision of direct services shall be matched on a program basis by such State, from funds other than Federal funds, for the provision of support services or for the provision of direct services for the fiscal year involved.

(3) The provisions of section 1413(a)(9) of this title shall not apply with respect to amounts available for use by any State under paragraph (2).

(4)(A) No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

(i) such local educational agency or intermediate educational unit is entitled, under subsection (d) of this section, to less than \$7,500 for such fiscal year; or

(ii) such local educational agency or intermediate educational unit has not submitted an application for such funds which meets the requirements of section 1414 of this title.

(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to children with disabilities residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

(d) Allocation of funds within States to local educational agencies and intermediate educational units

(1) From the total amount of funds available for any fiscal year under subsection (c)(1)(B) of this section, the State shall provide to each local educational agency or intermediate educational unit an amount that bears the same ratio to such total amount as the number of children, aged 3 through 21, determined under subsection (a)(3) of this section for such agency or unit bears to the total number of such children determined for all such agencies and units that apply for such funds.

(2)(A) To the extent necessary, the State—

(i) shall use funds available under subsection (c)(2)(A)(ii) of this section to ensure that each State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding October 20, 1994) receives, from the sum of such funds and funds provided under paragraph (1), an amount equal to—

(I) the number of children, aged 6 through 21, determined under subsection (a)(3) of this section for such agency; multiplied by

(II) the per-child amount provided under such subpart for fiscal year 1994; and

(ii) may use such funds to ensure that each local educational agency that received for fiscal year 1994 under such subpart for children

who had transferred from a State-owned, State-operated, or State-supported school or program assisted under such subpart receives, from the sum of such funds and funds provided under paragraph (1), an amount for each such child, aged 3 through 21, determined under subsection (a)(3) of this section for such agency, equal to the per-child amount the agency received under such subpart for fiscal year 1994.

(B) For the purpose of subparagraph (A), the number of children determined under subsection (a)(3) of this section for any State agency or local educational agency shall not exceed the number of children aged 3 through 21 for whom such agency received funds under such subpart for such fiscal year.

(e) Territories and possessions

(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with the Government of Palau takes effect).

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 1400(c) of this title in an amount equal to an amount determined by the Secretary in accordance with criteria based on respective needs, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts available to all States under this subchapter for that fiscal year. If the aggregate of the amounts, determined by the Secretary pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(3) The amount expended for administration by each jurisdiction under this subsection shall not exceed 5 per centum of the amount allotted to such jurisdiction for any fiscal year, or \$35,000, whichever is greater.

(f) Indian reservations

(1) The Secretary shall make payments to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5-21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. In the case of Indian students ages 3-5, inclusive, who are enrolled in programs affiliated with Bureau of Indian Affairs (hereafter in this subsection referred to as "BIA") schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to October 7, 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this subchapter for these children, in accordance with paragraph (3). The

amount of such payment for any fiscal year shall be 1 percent of the aggregate amounts available for all States under this section for that fiscal year.

(2) With respect to all other children aged 3-21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this subchapter are implemented.

(3) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary of Education an application that—

(A) meets the appropriate requirements, as determined by the Secretary of Education, of sections 1412 (including monitoring and evaluation activities), 1413, and 1414(a) of this title;

(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this subchapter with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures required under subparagraph (A);

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 1418(b)(1) of this title, including data on the number of children and youth with disabilities served and the types and amounts of services provided and needed and this information shall be included in the annual report of the Secretary of Education to Congress required in section 1418(g) of this title;

(E) includes an assurance that, by October 1, 1992, the Secretaries of the Interior and Health and Human Services will enter into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations. Such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical/personal supplies as needed for a child to remain in school or a program; and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this chapter, and will fulfill its duties under this chapter.

Section 1416(a) of this title shall apply to any such application.

(4)(A) Beginning with funds appropriated under subsection (a) of this section for fiscal

year 1992, the Secretary shall, subject to this paragraph, make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 450b of title 25) or consortiums of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3-5, inclusive, on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be .25 percent of the aggregate amounts available for all States under this section for that fiscal year.

(B) The Secretary of the Interior shall distribute the total amount of the .25 percent under subparagraph (A) in the following manner:

(i) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for BIA operated or funded schools serving such reservation generated under the formula established under section 2008¹ of title 25, divided by the total number of such students in all BIA operated or funded schools.

(ii) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based on the number of children with disabilities, ages 3-5, inclusive, residing on reservations as reported annually divided by the total of such children served by all tribes or tribal organizations.

(C) To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

(D) The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3-5, inclusive, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(E) To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall make a biennial report to the Secretary of the Interior of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall in-

clude a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) The Secretary of the Interior shall offer and, on request, provide technical assistance (especially in the areas of child find, diagnosis, and referral) to State and local educational agencies (where appropriate, intermediate educational units), and tribes and tribal organizations. Such assistance may be provided through its divisions and offices at the national and local level.

(G) None of the funds allocated under this paragraph can be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(5) Before January 1, 1992, the Secretary of the Interior shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this chapter. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing such a plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. Such plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, children, and youth with disabilities, to tribes, and to other interested parties.

(6) To meet the requirements of sections 1413(a)(12) of this title, the Secretary of the Interior shall establish, within 6 months of October 7, 1991, under the Bureau of Indian Affairs (BIA), an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, children, and youth with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

(C) develop and recommend policies concerning effective inter- and intra-agency collabo-

¹ See References in Text note below.

ration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, children, and youth with disabilities; and

(E) provide assistance in the preparation of information required under paragraph (3)(D).

(g) Reductions or increases

(1)(A) If the sums appropriated under subsection (h) of this section for any fiscal year are not sufficient to pay in full the total of the amounts that all States are eligible to receive under subsection (a) of this section, each such amount shall be ratably reduced.

(B) If additional funds become available for making such payments for any fiscal year, such reduced amounts shall be increased on the same basis as such payments were reduced.

(C) Any State that receives any such additional funds shall distribute such funds in accordance with this section, except that any State that has used funds available under subsection (c)(2)(A)(ii) of this section for the purposes described in subsection (d)(2) of this section may—

(i) deduct, from the amount that the State would otherwise be required to make available to local educational agencies and intermediate educational units, the same amount of such additional funds as the State so used; and

(ii) use such funds in accordance with subsection (c)(2)(A)(ii) of this section.

(2)(A) In any fiscal year for which payments have been reduced and additional funds have not been made available under paragraph (1) to pay in full the amounts for which all States are eligible under this section, each State educational agency shall fix dates by which each local educational agency or intermediate educational unit shall report to the State agency the amount of funds available to such agency under this section that such agency estimates such agency will expend.

(B) The State educational agency shall, in accordance with this section, reallocate any funds that the State educational agency determines will not be used during the period of availability by local educational agencies and intermediate educational units, and by any such agency or unit to which such funds would be available if such agency or unit applied for such funds under this subchapter, to those local educational agencies and intermediate educational units that the State educational agency determines will need, and be able to use, additional funds to carry out approved programs.

(h) Authorization of appropriations

For grants under subsection (a) of this section there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 91-230, title VI, §611, Apr. 13, 1970, 84 Stat. 178; Pub. L. 93-380, title VI, §614(a), (e)(1), (2), Aug. 21, 1974, 88 Stat. 580, 582; Pub. L. 94-142, §2(a)(1)–(3), 5(a), (c), Nov. 29, 1975, 89 Stat. 773, 776, 794; Pub. L. 95-561, title XIII, §1341(a), Nov.

1, 1978, 92 Stat. 2364; Pub. L. 96-270, §13, June 14, 1980, 94 Stat. 498; Pub. L. 98-199, §§3(b), 15, Dec. 2, 1983, 97 Stat. 1358, 1374; Pub. L. 99-159, title VI, §601, Nov. 22, 1985, 99 Stat. 904; Pub. L. 99-362, §2, July 9, 1986, 100 Stat. 769; Pub. L. 99-457, title II, §201(b), title IV, §§403, 404, Oct. 8, 1986, 100 Stat. 1158, 1173; Pub. L. 100-630, title I, §102(a), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101-476, title II, §201, title IX, §901(b)(25)–(32), Oct. 30, 1990, 104 Stat. 1111, 1143; Pub. L. 102-73, title VIII, §802(d)(2), (3), July 25, 1991, 105 Stat. 361; Pub. L. 102-119, §§4, 25(a)(4), (19), (b), Oct. 7, 1991, 105 Stat. 587, 606, 607; Pub. L. 103-382, title III, §311, Oct. 20, 1994, 108 Stat. 3931.)

REFERENCES IN TEXT

Subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding October 20, 1994), referred to in subsecs. (a)(5)(A)(i), (ii), (b)(1)(B), (2), and (d)(2), means subpart 2 of part D of chapter 1 of title I of Pub. L. 89-10, as added by Pub. L. 100-297, title I, §1001, Apr. 28, 1988, 102 Stat. 179, as amended, which was classified generally to subpart 2 (§2791 et seq.) of part D of div. I of subchapter I of chapter 47 of this title prior to being omitted in the general amendment of Pub. L. 89-10 by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

For Oct. 1, 1994, as the date the Compact of Free Association with the Government of Palau takes effect, referred to in subsec. (e)(1), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

Section 2008 of title 25, referred to in subsec. (f)(4)(B)(i), was in the original a reference to section 1128 of the Education Amendments of 1978, Pub. L. 95-561. Section 1128 of Pub. L. 95-561 was omitted in the general amendment of chapter 22 (§2001 et seq.) of Title 25, Indians, by Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103-382 enacted a new section 1127 of Pub. L. 95-561, relating to allotment formulas, and a new section 1128, relating to administrative cost grants, which are classified to sections 2007 and 2008, respectively, of Title 25.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-382, §311(a)(1), amended par. (1) generally. Prior to amendment, par. (1) consisted of introductory and concluding provisions and subpars. (A) and (B) providing formulas for determining maximum State entitlements for fiscal years ending in 1978, 1979, 1980, 1981, 1982, and thereafter.

Subsec. (a)(2). Pub. L. 103-382, §311(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For the purpose of this subsection and subsection (b) through subsection (e) of this section, the term ‘State’ does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.”

Subsec. (a)(5)(A)(i). Pub. L. 103-382, §311(a)(3)(A), substituted “, or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding October 20, 1994), whichever is greater, if the State” for “and the State” and inserted “and” after comma at end.

Subsec. (a)(5)(A)(ii). Pub. L. 103-382, §311(a)(3)(B), substituted “, or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding October 20, 1994), whichever is greater, if the State” for “and the State” and substituted a period for “; and” at end.

Subsec. (a)(5)(A)(iii). Pub. L. 103-382, §311(a)(3)(C), struck out cl. (iii) which read as follows: "children with disabilities who are counted under subpart 2 of part D of chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965."

Subsec. (b). Pub. L. 103-382, §311(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) consisted of pars. (1) and (2) providing for distribution and use of grant funds by States for the fiscal year ending Sept. 30, 1978.

Subsec. (c)(1). Pub. L. 103-382, §311(c)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Of the funds received under subsection (a) of this section by any State for the fiscal year ending September 30, 1979, and for each fiscal year thereafter—

"(A) 25 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

"(B) except as provided in paragraph (4), 75 per centum of such funds shall be distributed by such State pursuant to subsection (d) of this section to local educational agencies and intermediate educational units in such State, for use in accordance with priorities established under section 1412(3) of this title."

Subsec. (c)(2)(A). Pub. L. 103-382, §311(c)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

"(i) an amount which is equal to the greater of—

"(I) 5 per centum of the total amount of funds received under this subchapter by such State; or

"(II) \$450,000;

may be used by such State for administrative costs related to carrying out the provisions of sections 1412 and 1413 of this title; and

"(ii) the part remaining after use in accordance with clause (i) shall be used by the State (I) to provide support services and direct services in accordance with the priorities established under section 1412(3) of this title, and (II) for the administrative costs of monitoring and complaint investigation but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985."

Subsec. (d). Pub. L. 103-382, §311(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, each local educational agency or intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, as the number of children with disabilities aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this subchapter."

Subsec. (e)(1). Pub. L. 103-382, §311(e), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau."

Subsec. (g). Pub. L. 103-382, §311(f), amended subsec. (g) generally. Prior to amendment, subsec. (g) consisted of pars. (1) and (2) relating to ratable reductions and increases in amounts paid to States as a result of variations in amounts appropriated.

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102-119, §25(a)(4), substituted "paragraph (5)" for "paragraph (3)" in introductory provisions.

Subsec. (a)(2). Pub. L. 102-73, §802(d)(2), which directed the substitution of "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau" for "and the Trust Territory of the Pacific Islands" in section 611(a)(2) of the "Education of the Handicapped Act", was executed to this section, which is section 611 of the Individuals with Disabilities Education Act, to reflect the probable intent of Congress, and the corresponding change in the Short Title of that Act. See section 1400(a) of this title.

Subsec. (c)(2)(A)(i)(II). Pub. L. 102-119, §4(a), substituted "\$450,000" for "\$350,000".

Subsec. (e)(1). Pub. L. 102-119, §25(a)(19), struck out "(until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)" after "Palau".

Pub. L. 102-73, §802(d)(3), which directed the substitution of "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)" for "and the Trust Territory of the Pacific Islands" in section 611(e)(1) of the "Education of the Handicapped Act", was executed to this section, which is section 611 of the Individuals with Disabilities Education Act, to reflect the probable intent of Congress, and the corresponding change in the Short Title of that Act. See section 1400(a) of this title.

Subsec. (f). Pub. L. 102-119, §4(b), amended subsec. (f) generally, substituting present provisions for provisions authorizing payments for education assistance for children with disabilities on Indian reservations, the amount of such payments being 1.25% of the aggregate amounts available to all States, requiring the submission by the Secretary of the Interior of an acceptable application as a condition precedent to the receipt of an allotment, and requiring, before Mar. 1, 1991, Secretary to submit to Congress plan for provision of services under this chapter to all children with disabilities residing on reservations, whether or not such reservation is served by a Bureau of Indian Affairs funded school.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, §25(b), requiring no change in text.

Subsec. (a)(1)(A), (3), (5)(A). Pub. L. 101-476, §901(b)(25)–(29), substituted "children with disabilities" for "handicapped children" wherever appearing.

Subsecs. (c)(4)(B), (d). Pub. L. 101-476, §901(b)(30), (31), substituted "children with disabilities" for "handicapped children" wherever appearing.

Subsec. (f)(1). Pub. L. 101-476, §§201(1), 901(b)(32), substituted "children with disabilities" for "handicapped children", inserted "(A)" after "reservations" and added cl. (B).

Subsec. (f)(2)(B). Pub. L. 101-476, §901(b)(32), substituted "children with disabilities" for "handicapped children".

Subsec. (f)(3). Pub. L. 101-476, §201(2), added par. (3).

1988—Subsec. (a)(2). Pub. L. 100-630, §102(a)(1), substituted "Commonwealth of the Northern Mariana Islands" for "Northern Mariana Islands".

Subsec. (a)(5)(A)(ii). Pub. L. 100-630, §102(a)(2)(A), substituted "or the order" for "on the order".

Subsec. (a)(5)(A)(iii). Pub. L. 100-630, §102(a)(2)(B), substituted "subpart 2 of part D of chapter 1 of title 1" for "section 121".

Subsec. (a)(5)(B). Pub. L. 100-630, §102(a)(2)(C), substituted "three to seventeen" for "five to seventeen" and "available to the Secretary" for "available to him".

Subsec. (e)(1). Pub. L. 100-630, §102(a)(3), substituted "Commonwealth of the Northern Mariana Islands" for "Northern Mariana Islands".

Subsec. (f)(1). Pub. L. 100-630, §102(a)(4), substituted "served" for "serviced".

Subsec. (f)(2)(B). Pub. L. 100-630, §102(a)(5), inserted a comma after "inclusive".

1986—Subsec. (a)(1)(A). Pub. L. 99-457, §201(b)(1), amended subpar. (A) generally. Prior to amendment,

subpar. (A) read as follows: “the number of handicapped children aged three to twenty-one, inclusive, in such State who are receiving special education and related services;”.

Subsec. (a)(5)(A). Pub. L. 99-457, § 403(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “In determining the allotment of each State under paragraph (1), the Secretary may not count—

“(i) handicapped children aged five to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 per centum of the number of all children aged five to seventeen, inclusive, in such State; and

“(ii) handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 241c-1].”

Pub. L. 99-362 inserted “aged five to seventeen, inclusive,” after “handicapped children” in cl. (i).

Subsec. (c)(2)(A)(ii). Pub. L. 99-457, § 403(b), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 1412(3) of this title.”

Subsec. (f). Pub. L. 99-457, § 404, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

“(1) The Secretary is authorized to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts available to all States under this subchapter for that fiscal year.

“(2) The Secretary of the Interior may receive an allotment under this subsection only after submitting to the Secretary an application which meets the applicable requirements of section 1414(a) of this title and which is approved by the Secretary. The provisions of section 1416 of this title shall apply to any such application.”

Subsec. (g)(1). Pub. L. 99-457, § 201(b)(2)(A), (B), substituted “subsection (a) of this section” for “this subchapter” in three places and inserted “under subsection (h) of this section” after “appropriated”.

Subsec. (g)(2). Pub. L. 99-457, § 201(b)(2)(C), substituted “in accordance with the provisions of this section” for “in accordance with the provisions of this subchapter”.

Subsec. (h). Pub. L. 99-457, § 201(b)(3), added subsec. (h).

1985—Subsec. (c)(1)(B). Pub. L. 99-159, § 601(b), substituted “paragraph (4)” for “paragraph (3)”.

Subsec. (c)(2)(A)(i)(II). Pub. L. 99-159, § 601(a), substituted “\$350,000” for “\$300,000”.

1983—Subsec. (a)(2). Pub. L. 98-199, § 15, inserted reference to Northern Mariana Islands.

Subsec. (a)(5). Pub. L. 98-199, § 3(b), substituted “Secretary” for “Commissioner”.

Subsec. (e)(1). Pub. L. 98-199, § 15, inserted reference to Northern Mariana Islands.

Subsecs. (e)(2), (f). Pub. L. 98-199, § 3(b), substituted “Secretary” for “Commissioner”.

1980—Subsec. (c)(2)(A)(i)(II). Pub. L. 96-270 substituted “\$300,000” for “\$200,000”.

1978—Subsec. (a)(3). Pub. L. 95-561 substituted “equal to the number of such children” for “equal to the average of the number of such children” and “December 1 of the fiscal year” for “October 1 and February 1 of the fiscal year”.

1975—Pub. L. 94-142, § 5(a), effective Oct. 1, 1977, completely revised section so as to incorporate within its provisions authority for basic entitlement and allocation of funds, formula for determining State entitlement, distribution of grant funds within State, coverage for territories and possessions, coverage for Indian reservations, and reductions or increases in funds and allocations. Pending effective date of that revision,

Pub. L. 94-142 amended this section as it applies through end of fiscal year ending Sept. 30, 1977, as described below.

Subsec. (a)(5)(A). Pub. L. 94-142, § 5(c), effective on the date upon which final regulations prescribed by the Commissioner under section 5(b) of Pub. L. 94-142 take effect, struck out provision in section as effective Oct. 1, 1977, that, in determining the allotment of each State, the Commissioner may not count, as part of the figure of 12 per centum of the number of all children aged five to seventeen in the State, any children with specific learning disabilities to the extent that the number of those children is greater than one-sixth of that percentage.

Subsec. (b)(2). Pub. L. 94-142, § 2(a)(1)(A), effective for period from July 1, 1975, through end of fiscal year ending Sept. 30, 1977, struck out Commonwealth of Puerto Rico from definition of “State”.

Subsec. (c)(1). Pub. L. 94-142, § 2(a)(1)(B), effective for period from July 1, 1975, through end of fiscal year ending Sept. 30, 1977, struck out Commonwealth of Puerto Rico from enumeration of territories and possessions to which subsec. (c) applies.

Subsec. (c)(2). Pub. L. 94-142, § 2(a)(2), effective for period from July 1, 1975, through end of fiscal year ending Sept. 30, 1977, substituted “years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977” for “year ending June 30, 1975” and “1 per centum” for “2 per centum”.

Subsec. (d). Pub. L. 94-142, § 2(a)(3), effective for period from July 1, 1975, through end of fiscal year ending Sept. 30, 1977, substituted “years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977” for “year ending June 30, 1975”.

1974—Pub. L. 93-380, § 614(a), as amended by Pub. L. 94-142, § 2(b)(1), amended section generally, effective for fiscal years ending June 30, 1975, and 1976, for period beginning July 1, 1976, and ending Sept. 30, 1976, and for fiscal year ending Sept. 30, 1977.

Subsec. (a). Pub. L. 93-380, § 614(e)(1), inserted before period “in order to provide full educational opportunity to all handicapped children”, effective July 1, 1975.

Subsec. (b). Pub. L. 93-380, § 614(e)(2), substituted appropriations authorization of \$100,000,000 and \$110,000,000 for fiscal years ending June 30, 1976, and 1977, for prior authorization of \$200,000,000; \$210,000,000; and \$220,000,000 for fiscal years ending June 30, 1971 through 1973, effective July 1, 1975.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3(a)(3)(A) of Pub. L. 103-382 provided that: “Parts A [§§ 311-315, enacting sections 1414a and 1491a to 1491o of this title, amending this section, and enacting provisions set out as notes under sections 1415, 1484, and 8921 of this title] and B [§§ 321-323, amending sections 11421 and 11431 to 11435 of Title 42, The Public Health and Welfare] of title III of this Act and the amendments made by such parts shall take effect on July 1, 1995.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 602 of Pub. L. 99-159 provided that: "The amendment made by section 601(a) [amending this section] shall take effect on July 1, 1985."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1341(b) of Pub. L. 95-561 provided that: "The amendments made by subsection (a) of this section [amending this section] shall take effect with respect to determinations made in fiscal year 1979 and thereafter."

EFFECTIVE DATE OF 1975 AMENDMENT

Section 5(c) of Pub. L. 94-142 provided that the amendment made by that section is effective on the date upon which final regulations prescribed by the Commissioner of Education under section 5(b) of Pub. L. 94-142, set out as a note below, take effect.

Section 8 of Pub. L. 94-142 provided that:

"(a) Notwithstanding any other provision of law, the amendments made by sections 2(a), 2(b), and 2(c) [amending this section and section 1412 of this title as in effect through Sept. 30, 1977, and amending provisions set out as notes under this section and sections 1412 and 1413 of this title] shall take effect on July 1, 1975.

"(b) The amendments made by sections 2(d), 2(e), 3, 6, and 7 [enacting sections 1405 and 1406 of this title, amending sections 1232, 1412, and 1453 of this title, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 1401 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

"(c) The amendments made by sections 4 and 5(a) [enacting sections 1415 to 1420 of this title and amending this section and sections 1401, 1412, 1413, and 1414 of this title] shall take effect on October 1, 1977, except that the provisions of clauses (A), (C), (D), and (E) of paragraph (2) of section 612 of the Act [section 1412 of this title], as amended by this Act, section 617(a)(1)(D) of the Act [section 1417(a)(1)(D) of this title], as amended by this Act, section 617(b) of the Act [section 1417(b) of this title], as amended by this Act, and section 618(a) of the Act [section 1418(a) of this title], as amended by this Act, shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

"(d) The provisions of section 5(b) [amending this section and enacting provisions set out as notes under this section] shall take effect on the date of the enactment of this Act [Nov. 29, 1975]."

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-380, § 614(a), which, as originally enacted, provided that the 1974 amendment of this section by section 614(a) of Pub. L. 93-380 was effective for fiscal year 1975 only, was amended by section 2(b)(1) of Pub. L. 94-142 to extend the life of the amendment of this section by section 614(a) of Pub. L. 93-380 by making it effective for the fiscal years ending June 30, 1975, and 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and the fiscal year ending Sept. 30, 1977.

Section 614(e)(3) of Pub. L. 93-380 provided that: "The amendments made by subsection (e) [amending this section] shall become effective and shall be deemed to have been enacted on July 1, 1975."

HANDICAPPED CHILDREN ELIGIBLE FOR SERVICES PROVIDED BY BUREAU OF INDIAN AFFAIRS; STUDY AND REPORT TO CONGRESS

Pub. L. 100-297, title V, § 5107(b), Apr. 28, 1988, 102 Stat. 369, as amended by Pub. L. 100-427, § 2(b)(2), Sept. 9, 1988, 102 Stat. 1604, directed Comptroller General to conduct a study relating to numbers of handicapped

children eligible for services provided by Bureau of Indian Affairs, with a report to be submitted to Congress on results of study no later than Apr. 28, 1989.

AUTHORIZATION OF APPROPRIATIONS

Section 2(e) of Pub. L. 94-142 provided that: "Notwithstanding the provision of section 611 of the Act [this section] as in effect during the fiscal years 1976 and 1977, there are authorized to be appropriated \$100,000,000 for the fiscal year 1976, such sums as may be necessary for the period beginning July 1, 1976, and ending September 30, 1976, and \$200,000,000 for the fiscal year 1977, to carry out the provisions of part B of the Act [this subchapter], as in effect during such fiscal years."

RULES AND REGULATIONS FOR DETERMINING SPECIFIC LEARNING DISABILITIES, DIAGNOSTIC PROCEDURES, AND MONITORING PROCEDURES; PROMULGATION BY COMMISSIONER OF EDUCATION; REVIEW OF REGULATIONS BY CONGRESSIONAL COMMITTEES

Section 5(b) of Pub. L. 94-142 provided that:

"(1) The Commissioner of Education shall, no later than one year after the effective date of this subsection [Nov. 29, 1975], prescribe—

"(A) regulations which establish specific criteria for determining whether a particular disorder or condition may be considered a specific learning disability for purposes of designating children with specific learning disabilities;

"(B) regulations which establish and describe diagnostic procedures which shall be used in determining whether a particular child has a disorder or condition which places such child in the category of children with specific learning disabilities; and

"(C) regulations which establish monitoring procedures which will be used to determine if State educational agencies, local educational agencies, and intermediate educational units are complying with the criteria established under clause (A) and clause (B).

"(2) The Commissioner shall submit any proposed regulation written under paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate, for review and comment by each such committee, at least fifteen days before such regulation is published in the Federal Register.

"(3) If the Commissioner determines, as a result of the promulgation of regulations under paragraph (1), that changes are necessary in the definition of the term 'children with specific learning disabilities', as such term is defined by section 602(15) of the Act [section 1401(15) of this title], he shall submit recommendations for legislation with respect to such changes to each House of the Congress.

"(4) For purposes of this subsection:

"(A) The term 'children with specific learning disabilities' means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or environmental, cultural, or economic disadvantage.

"(B) The term 'Commissioner' means the Commissioner of Education."

DUTIES AND RESPONSIBILITIES OF SECRETARY OF THE INTERIOR RESPECTING FUNDS

Pub. L. 92-318, title IV, § 421(b)(2), June 23, 1972, 86 Stat. 341, prescribed duties of the Secretary of the Interior with respect to funds paid to the Secretary under

sections 1411 to 1414 of this title and former subchapters I and II of chapter 24 of this title, prior to repeal by Pub. L. 100-297, title V, §5352(4), Apr. 28, 1988, 102 Stat. 414.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1413, 1414, 1414a, 1419, 1484 of this title.

§ 1412. Eligibility requirements

In order to qualify for assistance under this subchapter in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) The State has in effect a policy that assures all children with disabilities the right to a free appropriate public education.

(2) The State has developed a plan pursuant to section 1413(b) of this title in effect prior to November 29, 1975, and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

(A) there is established (i) a goal of providing full educational opportunity to all children with disabilities, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

(B) a free appropriate public education will be available for all children with disabilities between the ages of three and eighteen within the State not later than September 1, 1978, and for all children with disabilities between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to children with disabilities aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

(C) all children residing in the State who are disabled, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(D) policies and procedures are established in accordance with detailed criteria prescribed under section 1417(c) of this title; and

(E) any amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Secretary.

(3) The State has established priorities for providing a free appropriate public education

to all children with disabilities, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to children with disabilities who are not receiving an education, and second with respect to children with disabilities, within each disability category, with the most severe disabilities who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education program for each child with a disability, and such program shall be established, reviewed, and revised as provided in section 1414(a)(5) of this title.

(5) The State has established (A) procedural safeguards as required by section 1415 of this title, (B) procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this subchapter are carried out and that all educational programs for children with disabilities within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for children with disabilities in the State educational agency and shall meet education standards of the State educational agency. This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the costs of a free appropriate public education to be provided children with disabilities in the State.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities and parents or guardians of children with disabilities, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to

adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 1413 of this title.

(Pub. L. 91-230, title VI, §612, Apr. 13, 1970, 84 Stat. 178; Pub. L. 92-318, title IV, §421(b)(1)(C), June 23, 1972, 86 Stat. 341; Pub. L. 93-380, title VI, §§614(b), (f)(1), 615(a), title VIII, §843(b), Aug. 21, 1974, 88 Stat. 581, 582, 611; Pub. L. 94-142, §§2(a)(4), (c), (d), 5(a), Nov. 29, 1975, 89 Stat. 773, 774, 780; Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99-457, title II, §203(a), Oct. 8, 1986, 100 Stat. 1158; Pub. L. 100-630, title I, §102(b), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101-476, title IX, §901(b)(33)-(46), (c), Oct. 30, 1990, 104 Stat. 1143, 1144, 1151; Pub. L. 102-119, §25(a)(5), (b), Oct. 7, 1991, 105 Stat. 606, 607.)

AMENDMENTS

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

Par. (3). Pub. L. 102-119, §25(a)(5), substituted “first with respect to children with disabilities” for “first with respect to handicapped children”.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, §25(b), requiring no change in text.

Pars. (1), (2)(A), (B). Pub. L. 101-476, §901(b)(33), (34), substituted “children with disabilities” for “handicapped children” wherever appearing.

Par. (2)(C). Pub. L. 101-476, §901(b)(36), (37), substituted “disabled” for “handicapped” and “disability” for “handicap”.

Par. (3). Pub. L. 101-476, §901(b)(38), (39), (c), substituted “children with disabilities,” for “handicapped children,” in two places, substituted “disabilities” for “handicaps”, and inserted “category” after “disability”.

Par. (4). Pub. L. 101-476, §901(b)(40), substituted “child with a disability” for “handicapped child”.

Par. (5). Pub. L. 101-476, §901(b)(41)-(43), substituted “children with disabilities” for “handicapped children” in three places, “disabled” for “handicapped”, and “disability” for “handicap”.

Par. (6). Pub. L. 101-476, §901(b)(44), substituted “children with disabilities” for “handicapped children” in three places.

Par. (7). Pub. L. 101-476, §901(b)(45), (46), substituted “children with disabilities” for “handicapped children” in two places and “individuals with disabilities” for “handicapped individuals”.

1988—Pub. L. 100-630, §102(b)(1), realigned margin of pars. (1) to (7).

Par. (2). Pub. L. 100-630, §102(b), realigned margins of subpars. (A) to (E) and, in subpar. (E), substituted “any amendment” for “the amendment”.

1986—Par. (6). Pub. L. 99-457 inserted provision that this paragraph not be construed to limit responsibilities of agencies other than educational agencies from providing for costs of education for handicapped children.

1983—Pub. L. 98-199 substituted “Secretary” for “Commissioner” in provision preceding par. (1) and in par. (2)(E).

1975—Pub. L. 94-142, §5(a), effective Oct. 1, 1977, completely revised section so as to incorporate within its provisions seven conditions which must be met by States in order to qualify for assistance. Pending the effective date of that revision, Pub. L. 94-142 amended this section as it applies through the end of the fiscal year ending Sept. 30, 1977, as described below.

Subsec. (a). Pub. L. 94-142, §2(a)(4), (c), effective for period from July 1, 1975, through end of fiscal year ending Sept. 30, 1977, substituted “years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal year ending September 30, 1977” for “year ending June 30, 1975”

and “preceding fiscal year” for “fiscal year 1974” and inserted “, or \$300,000, whichever is greater” after “preceding fiscal year”.

Subsec. (d). Pub. L. 94-142, §2(d), effective for period from Nov. 29, 1975, through end of fiscal year ending Sept. 30, 1977, added subsec. (d).

1974—Pub. L. 93-380, §614(b), as amended by Pub. L. 94-142, §2(b)(2), amended section generally, effective for fiscal years ending June 30, 1975, and 1976, for period beginning July 1, 1976, and ending Sept. 30, 1976, and for fiscal year ending Sept. 30, 1977.

Subsec. (a)(1). Pub. L. 93-380, §843(b)(3), reduced rate from “3” to “1” per centum, effective after June 30, 1975.

Subsec. (a)(1)(A). Pub. L. 93-380, §843(b)(1), struck “Puerto Rico,” before “Guam”, effective after June 30, 1975.

Subsec. (a)(1)(B). Pub. L. 93-380, §614(f)(1), substituted “1977” for “1973”, effective on and after July 1, 1973.

Subsec. (a)(2). Pub. L. 93-380, §§615(a)(1), 843(b)(2), substituted \$300,000 for \$200,000, effective on and after July 1, 1975; and struck out “the Commonwealth of Puerto Rico,” before “Guam”, effective after June 30, 1975.

Subsec. (a)(3). Pub. L. 93-380, §615(a)(2), added par. (3), effective on and after July 1, 1975.

1972—Subsec. (a)(1)(B). Pub. L. 92-318 substituted “July 1, 1973” for “July 1, 1972”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment of subsec. (a) as in effect through Sept. 30, 1977, by section 2(a)(4), (c) of Pub. L. 94-142 effective July 1, 1975, see section 8(a) of Pub. L. 94-142, set out as a note under section 1411 of this title.

Enactment of subsec. (d) as in effect through Sept. 30, 1977, by section 2(d) of Pub. L. 94-142 effective Nov. 29, 1975, see section 8(b) of Pub. L. 94-142, set out as a note under section 1411 of this title.

Complete revision of this section by section 5(a) of Pub. L. 94-142 effective Oct. 1, 1977, except for clauses (A), (C), (D), and (E) of par. (2) of this section as so revised which are effective Nov. 29, 1975, see section 8(c) of Pub. L. 94-142, set out as a note under section 1411 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 614(b) of Pub. L. 93-380 which, as originally enacted, provided that the 1974 amendment of this section by section 614(b) of Pub. L. 93-380 was effective for fiscal year 1975 only, was amended by section 2(b)(2) of Pub. L. 94-142 to extend the life of the amendment of this section by section 614(b) of Pub. L. 93-380 by making it effective for the fiscal years ending June 30, 1975, and 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and the fiscal year ending Sept. 30, 1977.

Section 614(f)(2) of Pub. L. 93-380 provided that: “The amendment made by this subsection [amending this section] shall be effective on and after July 1, 1973.”

Section 615(a) of Pub. L. 93-380 provided that the amendment made by that section is effective on and after July 1, 1975.

Section 615(d) of Pub. L. 93-380, as amended by Pub. L. 101-476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: “The amendment made by subsections (a)(1) and (b) of this section [amending this section and section 1413 of this title] shall be effective in any fiscal year for which the aggregate of the amounts allotted to the States for that fiscal year for carrying out part B of the Individuals with Disabilities Education Act [this subchapter] is \$45,000,000 or more.”

Section 843(b) of Pub. L. 93-380 provided that the amendment made by that section is effective after June 30, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1400, 1411, 1413, 1414, 1416, 1418, 1419, 2328, 2468e of this title.

§ 1413. State plans

(a) Requisite features

Any State meeting the eligibility requirements set forth in section 1412 of this title and desiring to participate in the program under this subchapter shall submit to the Secretary, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as the Secretary deems necessary. Each such plan shall—

(1) set forth policies and procedures designed to assure that funds paid to the State under this subchapter will be expended in accordance with the provisions of this subchapter, with particular attention given to the provisions of sections 1411(b), 1411(c), 1411(d), 1412(2), and 1412(3) of this title;

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) describe, consistent with the purposes of this chapter and with the comprehensive system of personnel development described in section 1476(b)(8) of this title, a comprehensive system of personnel development that shall include—

(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including—

(i) the development and maintenance of a system for determining, on an annual basis—

(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

(I) the numbers of students enrolled in such programs, and

(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

(iii) the development, updating, and implementation of a plan that—

(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this subchapter are appropriately and adequately prepared, including—

(i) a system for the continuing education of regular and special education and related services personnel;

(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.¹

(4) set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of children with disabilities in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this subchapter by providing for such children special education and related services; and

(B) that—

(i) children with disabilities in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by this subchapter) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all

¹ So in original. The period probably should be a semicolon.

children with disabilities within such State; and

(ii) in all such instances, the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this subchapter for services to any child who is determined to be erroneously classified as eligible to be counted under section 1411(a) or 1411(d) of this title;

(6) provide satisfactory assurance that the control of funds provided under this subchapter, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property;

(7) provide for—

(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this subchapter, and

(B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter;

(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

(9) provide satisfactory assurance that Federal funds made available under under this subchapter—

(A) will not be commingled with State funds, and

(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this subchapter and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;

(10) provide, consistent with procedures prescribed pursuant to section 1417(a)(2) of this title, satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this subchapter to the State,

including any such funds paid by the State to local educational agencies and intermediate educational units;

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of children with disabilities (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 1417 of this title;

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities, teachers, parents or guardians of children with disabilities, State and local education officials, and administrators of programs for children with disabilities, which—

(A) advises the State educational agency of unmet needs within the State in the education of children with disabilities,

(B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of children with disabilities and the procedures for distribution of funds under this subchapter, and

(C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of the responsibilities of the Secretary under section 1418 of this title;

(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to—

(A) define the financial responsibility of each agency for providing children and youth with disabilities with free appropriate public education, and

(B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement;

(14) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this subchapter are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing special education or related services, and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; and

(15) set forth policies and procedures relating to the smooth transition for those individ-

uals participating in the early intervention program assisted under subchapter VIII of this chapter who will participate in preschool programs assisted under this subchapter, including a method of ensuring that when a child turns age three an individualized education program, or, if consistent with sections 1414(a)(5) and 1477(d) of this title, an individualized family service plan, has been developed and is being implemented by such child's third birthday.

(b) Additional assurances

Whenever a State educational agency provides free appropriate public education for children with disabilities, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection (a) of this section as are contained in section 1414(a) of this title, except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 1414(a) of this title.

(c) Notice and hearing prior to disapproval of plan

(1) The Secretary shall approve any State plan and any modification thereof which—

(A) is submitted by a State eligible in accordance with section 1412 of this title; and

(B) meets the requirements of subsection (a) and subsection (b) of this section.

(2) The Secretary shall disapprove any State plan which does not meet the requirements of paragraph (1), but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) Participation of children with disabilities in private schools; payment of Federal amount; determinations of Secretary: notice and hearing; judicial review: jurisdiction of court of appeals, petition, record, conclusiveness of findings, remand, review by Supreme Court

(1) If, on December 2, 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(4) of this section, the Secretary shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a)(4) of this section.

(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount per child which may not exceed the Federal amount provided per child under this subchapter to all children with disabilities enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(4) of this section.

(3)(A) The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

(B) If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(e) Prohibition on reduction of assistance

This chapter shall not be construed to permit a State to reduce medical and other assistance available or to alter eligibility under titles V and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1396 et seq.] with respect to the provision of a free appropriate public education for children with disabilities within the State.

(Pub. L. 91-230, title VI, §613, Apr. 13, 1970, 84 Stat. 179; Pub. L. 93-380, title VI, §§614(c), (d), 615(b), (c), title VIII, §843(b)(2), Aug. 21, 1974, 88 Stat. 581, 583, 611; Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 782; Pub. L. 98-199, §3(b), 7, Dec. 2, 1983, 97 Stat. 1358, 1359; Pub. L. 99-457, title II, §203(b), title IV, §405, Oct. 8, 1986, 100 Stat. 1159, 1174; Pub. L. 100-630, title I, §102(c), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101-476, title II, §202, title IX, §901(b)(47)-(58), Oct. 30, 1990, 104 Stat. 1111, 1144; Pub. L. 102-119, §§5, 25(a)(6), (b), Oct. 7, 1991, 105 Stat. 591, 606, 607; Pub. L. 103-382, title III, §391(f)(2), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles

V and XIX of the Social Security Act are classified generally to subchapters V (§701 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103-382 struck out “, including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965,” after “other Federal program”.

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

Subsec. (a)(2). Pub. L. 102-119, §25(a)(6)(A), struck out “and section 2332(1) of this title” before “, under which”.

Subsec. (a)(3). Pub. L. 102-119, §5(1), substituted “this chapter and with the comprehensive system of personnel development described in section 1476(b)(8) of this title,” for “this chapter.”

Subsec. (a)(9)(B). Pub. L. 102-119, §25(a)(6)(B), made amendment similar to amendment by Pub. L. 101-476, §901(b)(50), requiring no change in text. See 1990 Amendment note below.

Subsec. (a)(15). Pub. L. 102-119, §5(2), added par. (15). 1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, §25(b), requiring no change in text.

Subsec. (a)(2). Pub. L. 101-476, §901(b)(47), substituted “children with disabilities” for “handicapped children” in two places.

Subsec. (a)(3). Pub. L. 101-476, §202, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “set forth, consistent with the purposes of this chapter, a description of programs and procedures for—

“(A) the development and implementation of a comprehensive system of personnel development, which shall include—

“(i) inservice training of general and special educational instructional and support personnel,

“(ii) detailed procedures to assure that all personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained, and

“(iii) effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and

“(B) adopting, where appropriate, promising educational practices and materials developed through such projects;”

Subsec. (a)(4), (9)(B), (11). Pub. L. 101-476, §901(b)(48)–(51), substituted “children with disabilities” for “handicapped children” wherever appearing.

Subsec. (a)(12). Pub. L. 101-476, §901(b)(52), (53), substituted “children with disabilities” for “handicapped children” in five places and “individuals with disabilities” for “handicapped individuals”.

Subsec. (a)(13)(A). Pub. L. 101-476, §901(b)(54), substituted “children and youth with disabilities” for “handicapped children and youth”.

Subsecs. (b), (d)(1), (2)(A), (e). Pub. L. 101-476, §901(b)(55)–(58), substituted “children with disabilities” for “handicapped children” wherever appearing.

1988—Subsec. (a). Pub. L. 100-630, §102(c)(1), substituted “the Secretary deems” for “he deems” in introductory provisions.

Subsec. (a)(2). Pub. L. 100-630, §102(c)(2), substituted “subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and section 2332(1) of this title,” for “section 241c-1 of this title, section 844a(b)(8) of this title or its successor authority, and section 1262(a)(4)(B) of this title.”

Subsec. (a)(3). Pub. L. 100-630, §102(c)(3), substituted “procedures for—” for “procedures for” in introductory provisions, added subpars. (A) and (B), and struck out former cls. (A) and (B) which read as follows: “(A) the development and implementation of a comprehensive

system of personnel development which shall include the inservice training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and (B) adopting, where appropriate, promising educational practices and materials development through such projects;”

Subsec. (a)(4)(B). Pub. L. 100-630, §102(c)(4), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program as required by this subchapter) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (ii) in all such instances the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;”

Subsec. (a)(7). Pub. L. 100-630, §102(c)(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out his functions under this subchapter, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter;”

Subsec. (a)(9). Pub. L. 100-630, §102(c)(6), substituted “under this subchapter—” for “under this subchapter” in introductory provisions, added subpars. (A) and (B), and struck out former cls. (A) and (B) which read as follows: “(A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to handicapped children under this subchapter and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State;”

Subsec. (a)(12). Pub. L. 100-630, §102(c)(7), substituted “children, which—” for “children, which” in introductory provisions, added subpars. (A) to (C), and struck out former cls. (A) to (C) which read as follows: “(A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this subchapter, and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under section 1418 of this title;”

Subsec. (a)(13). Pub. L. 100-630, §102(c)(8), substituted “local agencies to—” for “local agencies to” in introductory provisions, added subpars. (A) and (B), and struck out former cls. (A) and (B) which read as follows: “(A) define the financial responsibility of each agency for providing handicapped children and youth with free appropriate public education, and (B) resolve

interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement.”

Subsec. (a)(14). Pub. L. 100-630, §102(c)(9), inserted “set forth” after “policies”, and in subpar. (A) substituted “such personnel are” for “he or she is”.

Subsec. (c). Pub. L. 100-630, §102(c)(10), designated first sentence as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, realigned margins of second sentence and designated it as par. (2), and substituted “paragraph (1)” for “the preceding sentence”.

Subsec. (d)(3)(A). Pub. L. 100-630, §102(c)(11), substituted “the Secretary’s designee” for “his designee”.

Subsec. (d)(3)(B). Pub. L. 100-630, §102(c)(12), substituted “the Secretary based the Secretary’s” for “he based his”.

Subsec. (d)(3)(C). Pub. L. 100-630, §102(c)(13), substituted “the Secretary’s” for “his” before “previous action”.

Subsec. (e). Pub. L. 100-630, §102(c)(14), substituted a period for “; and” at end.

1986—Subsec. (a)(9). Pub. L. 99-457, §203(b)(1), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “provide satisfactory assurance that Federal funds made available under this subchapter (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case to supplant such State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State:”.

Subsec. (a)(13). Pub. L. 99-457, §203(b)(2), added par. (13).

Subsec. (a)(14). Pub. L. 99-457, §405, added par. (14).

Subsec. (e). Pub. L. 99-457, §203(b)(3), added subsec. (e).

1983—Subsecs. (a), (c). Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner” wherever appearing.

Subsec. (d). Pub. L. 98-199, §7, added subsec. (d).

1975—Pub. L. 94-142, §5(a), effective Oct. 1, 1977, amended section generally, incorporating within its provisions updated features which any State plan must have when submitted to the Commissioner through its State educational agency and so as to strike out provisions covering the administrative proceedings and judicial review attendant upon the submission of a State plan. See sections 1414 et seq. of this title.

1974—Subsec. (a). Pub. L. 93-380, §614(c), substituted in first sentence “is entitled to receive payments” for “desires to receive grants”, effective for fiscal years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending Sept. 30, 1976, and for the fiscal year ending Sept. 30, 1977.

Subsec. (a)(1). Pub. L. 93-380, §§615(b), 843(b)(2), substituted \$200,000 for \$100,000 and struck out “the Commonwealth of Puerto Rico,” before “Guam”.

Subsec. (a)(12), (13). Pub. L. 93-380, §614(d), added pars. (12) and (13).

Subsecs. (b) to (e). Pub. L. 93-380, §615(c)(1), (2), added subsec. (b), redesignated former subsecs. (b) to (d) as (c) to (e), respectively, and in subsec. (e)(1), as redesignated, substituted reference to subsection “(d)” for “(c)” of this section.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 5 of Pub. L. 102-119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102-119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-142 effective Oct. 1, 1977, see section 8(c) of Pub. L. 94-142, set out as a note under section 1411 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 614(c) of Pub. L. 93-380 which, as originally enacted, provided that the amendment of subsec. (a) by section 614(c) of Pub. L. 93-380 was effective for fiscal year 1975 only, was amended by section 2(b)(3) of Pub. L. 94-142 to extend the life of the amendment by section 614(c) of Pub. L. 93-380 by making it effective for the fiscal years ending June 30, 1975, and 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and the fiscal year ending Sept. 30, 1977.

Enactment by section 614(d) of Pub. L. 93-380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date note under section 1221-1 of this title.

Section 843(b) of Pub. L. 93-380 provided that the amendment made by that section is effective after June 30, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1412, 1414, 1415, 1416, 1418, 1419, 1432, 1476 of this title; title 29 sections 725, 2212; title 42 section 5116.

§ 1414. Application

(a) Requisite features

A local educational agency or an intermediate educational unit which desires to receive payments under section 1411(d) of this title for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) provide satisfactory assurance that payments under this subchapter will be used for excess costs directly attributable to programs which—

(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are disabled, regardless of the severity of their disability, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

(B) establish policies and procedures in accordance with detailed criteria prescribed under section 1417(c) of this title;

(C) establish a goal of providing full educational opportunities to all children with disabilities, including—

(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 1413(a)(3) of this title;

(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all children with disabilities, first with respect to children with disabilities who are not receiving an education, and second with respect to children with disabilities, within each disability, with the most severe disabilities who are receiving an inadequate education;

(iii) the participation and consultation of the parents or guardian of such children; and

(iv) to the maximum extent practicable and consistent with the provisions of section 1412(5)(B) of this title, the provision of special services to enable such children to participate in regular educational programs;

(D) establish a detailed timetable for accomplishing the goal described in subclause (C); and

(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

(2) provide satisfactory assurance that—

(A) the control of funds provided under this subchapter, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property;

(B) Federal funds expended by local educational agencies and intermediate educational units for programs under this subchapter—

(i) shall be used to pay only the excess costs directly attributable to the education of children with disabilities; and

(ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of children with disabilities, and in no case to supplant such State and local funds; and

(C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas that, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction that are not receiving funds under this subchapter;

(3) provide for—

(A) furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this subchapter, including information relating to the educational achievement of children with disabilities participating in programs carried out under this subchapter; and

(B) keeping such records, and affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of

such information furnished under subparagraph (A);

(4) provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluations and reports required under clause (3) shall be public information;

(5) provide assurances that the local educational agency or intermediate educational unit will establish or revise, whichever is appropriate, an individualized education program for each child with a disability (or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 1477(d) of this title for each child with a disability aged 3 to 5, inclusive) at the beginning of each school year and will then review and, if appropriate, revise, its provisions periodically, but not less than annually;

(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provisions of paragraph (1) through paragraph (7) of section 1412 and section 1413(a) of this title; and

(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 1412(5)(B), 1412(5)(C), and 1415 of this title.

(b) Approval by State educational agencies of applications submitted by local educational agencies or intermediate educational units; notice and hearing

(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) of this section if the State educational agency determines that such application meets the requirements of subsection (a) of this section, except that no such application may be approved until the State plan submitted by such State educational agency under subsection (a) of this section is approved by the Secretary under section 1413(c) of this title. A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) of this section if the State educational agency determines that such application does not meet the requirements of subsection (a) of this section.

(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

(i) make no further payments to such local educational agency or such intermediate edu-

cational unit under section 1420 of this title until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a) of this section.

(B) The provisions of the last sentence of section 1416(a) of this title shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 1415 of this title which is adverse to the local educational agency or intermediate educational unit involved in such decision.

(c) Consolidated applications

(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 1411(c)(4)(A)(i) of this title or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of children with disabilities.

(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 1411(d) of this title if an individual application of any such local educational agency had been approved.

(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 1412 and section 1413(a) of this title and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this subchapter.

(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this subchapter, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

(d) Special education and related services provided directly by State educational agencies; regional or State centers

Whenever a State educational agency determines that a local educational agency—

(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a) of this section;

(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(3) has one or more children with disabilities who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to children with disabilities residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this subchapter.

(e) Reallocation of funds

Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 1411(d) of this title, to such other local educational agencies within the State as are not adequately providing special education and related services to all children with disabilities residing in the areas served by such other local educational agencies.

(f) Programs using State or local funds

Notwithstanding the provisions of subsection (a)(2)(B)(ii) of this section, any local educational agency which is required to carry out any program for the education of children with disabilities pursuant to a State law shall be entitled to receive payments under section 1411(d) of this title for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

(Pub. L. 91-230, title VI, §614, Apr. 13, 1970, 84 Stat. 181; Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 784; Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, §102(d), Nov. 7, 1988, 102 Stat. 3293; Pub. L. 101-476, title IX, §901(b)(59)-(70), Oct. 30, 1990, 104 Stat. 1144, 1145; Pub. L. 102-119, §§6, 25(b), Oct. 7, 1991, 105 Stat. 591, 607.)

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476, § 901(b). See 1990 Amendment note below.

Subsec. (a)(5). Pub. L. 102-119, § 6, inserted “(or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 1477(d) of this title for each child with a disability aged 3 to 5, inclusive)” after “disability”.

1990—Pub. L. 101-476, § 901(b), was amended in its directory language by Pub. L. 102-119, § 25(b), requiring no change in text.

Subsec. (a)(1)(A). Pub. L. 101-476, § 901(b)(59), (60), substituted “disabled” and “disability” for “handicapped” and “handicap”, respectively.

Subsec. (a)(1)(C). Pub. L. 101-476, § 901(b)(61)–(63), in introductory provisions substituted “children with disabilities” for “handicapped children” and in cl. (ii) substituted “children with disabilities” for “handicapped children” in three places and “disabilities” for “handicaps”.

Subsec. (a)(2)(B)(i), (ii), (3). Pub. L. 101-476, § 901(b)(64), (65), substituted “children with disabilities” for “handicapped children”.

Subsec. (a)(5). Pub. L. 101-476, § 901(b)(66), substituted “child with a disability” for “handicapped child”.

Subsecs. (c)(1), (d) to (f). Pub. L. 101-476, § 901(b)(67)–(70), substituted “children with disabilities” for “handicapped children” wherever appearing.

1988—Subsec. (a)(2). Pub. L. 100-630, § 102(d)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “provide satisfactory assurance that (A) the control of funds provided under this subchapter, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property, (B) Federal funds expended by local educational agencies and intermediate educational units for programs under this subchapter (i) shall be used to pay only the excess costs directly attributable to the education of handicapped children, and (ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds, and (C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this subchapter;”.

Subsec. (a)(3). Pub. L. 100-630, § 102(d)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

“(A) provide for furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this subchapter, including information relating to the educational achievement of handicapped children participating in programs carried out under this subchapter; and

“(B) provide for keeping such records, and provide for affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subclause (A);”.

Subsec. (a)(5). Pub. L. 100-630, § 102(d)(3), struck out comma after “establish” and inserted a comma after “if appropriate”.

1983—Subsec. (b)(1). Pub. L. 98-199 substituted “Secretary” for “Commissioner”.

1975—Pub. L. 94-142, effective Oct. 1, 1977, completely revised section so as to incorporate within its provisions the process through which local educational agen-

cies and intermediate educational units desiring to receive payments submit applications to the appropriate State educational agency and so as to strike out former provisions covering State matching funds.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Complete revision of this section by section 5(a) of Pub. L. 94-142 effective Oct. 1, 1977, see section 8(c) of Pub. L. 94-142, set out as a note under section 1411 of this title.

MAINTENANCE OF EFFORT

Pub. L. 99-506, title X, § 1005, Oct. 21, 1986, 100 Stat. 1845, directed that Secretary and State educational agency, in the case of subsec. (a)(2)(B)(ii) of this section, not include expenditures made from an accrued fund reserve surplus after July 1, 1983, and prior to Oct. 1, 1985, which were used for services for handicapped children.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1411, 1412, 1413, 1414a, 1418, 1420, 2325, 2328, 2341, 2423, 2468e of this title; title 29 section 2211.

§ 1414a. Treatment of chapter 1 State agencies**(a) Treatment as local educational agencies**

For the purpose of making payments under sections 1411 and 1419 of this title, any State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding October 20, 1994) shall be treated as if the State agency were a local educational agency.

(b) Applications

Any State agency which desires to receive payments under section 1411(d) of this title and section 1419(c)(3) of this title for any fiscal year shall submit an application to the State educational agency. Such application shall—

(1) include an assurance that all children with disabilities who are participating in programs and projects funded under this subchapter receive a free appropriate public education, and that such children and their parents are provided all the rights and procedural safeguards described in this subchapter; and

(2) meet those requirements of section 1414 of this title that the Secretary finds appropriate.

(c) Application of section 1411(c)(4)

Section 1411(c)(4) of this title shall not apply with respect to a State agency that is eligible for a payment under this subchapter by application of this section.

(Pub. L. 91-230, title VI, § 614A, as added Pub. L. 103-382, title III, § 312, Oct. 20, 1994, 108 Stat. 3934.)

REFERENCES IN TEXT

Subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such

subpart was in existence on the day preceding October 20, 1994), referred to in subsec. (a), means subpart 2 of part D of chapter 1 of title I of Pub. L. 89-10, as added by Pub. L. 100-297, title I, § 1001, Apr. 28, 1988, 102 Stat. 179, as amended, which was classified generally to subpart 2 (§ 2791 et seq.) of part D of div. I of subchapter I of chapter 47 of this title prior to being omitted in the general amendment of Pub. L. 89-10 by Pub. L. 103-382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

EFFECTIVE DATE

Section effective July 1, 1995, see section 3(a)(3)(A) of Pub. L. 103-382, set out as an Effective Date of 1994 Amendment note under section 1411 of this title.

§ 1415. Procedural safeguards

(a) Establishment and maintenance

Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this subchapter shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that children with disabilities and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b) Required procedures; hearing

(1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a child with a disability to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

- (i) proposes to initiate or change, or
- (ii) refuses to initiate or change,

the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the par-

ents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

(c) Review of local decision by State educational agency

If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

(d) Enumeration of rights accorded parties to hearings

Any party to any hearing conducted pursuant to subsections (b) and (c) of this section shall be accorded—

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities,

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses,

(3) the right to a written or electronic verbatim record of such hearing, and

(4) the right to written findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 1417(c) of this title and shall also be transmitted to the advisory panel established pursuant to section 1413(a)(12) of this title).

(e) Civil action; jurisdiction

(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) of this section shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) of this section shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and decision made under subsection (b) of this section who does not have the right to an appeal under subsection (c) of this section, and any party aggrieved by the findings and decision under subsection (c) of this section, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the

evidence, shall grant such relief as the court determines is appropriate.

(3)(A) Except as provided in subparagraph (B), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents or guardian, be placed in the public school program until all such proceedings have been completed.

(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting, in accordance with State law, for not more than 45 days.

(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 1401(a)(20) of this title.

(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b) of this section, then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.

(iv) For the purpose of this section, the term “weapon” means a firearm as such term is defined in section 921 of title 18.

(4)(A) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

(B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys’ fees as part of the costs to the parents or guardian of a child or youth with a disability who is the prevailing party.

(C) For the purpose of this subsection, fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) No award of attorneys’ fees and related costs may be made in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent or guardian, if—

(i) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

(ii) the offer is not accepted within ten days; and

(iii) the court or administrative officer finds that the relief finally obtained by the parents or guardian is not more favorable to the parents or guardian than the offer of settlement.

(E) Notwithstanding the provisions of subparagraph (D), an award of attorneys’ fees and relat-

ed costs may be made to a parent or guardian who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Whenever the court finds that—

(i) the parent or guardian, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys’ fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, experience, and reputation; or

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding,

the court shall reduce, accordingly, the amount of the attorneys’ fees awarded under this subsection.

(G) The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

(f) Effect on other laws

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], or other Federal statutes protecting the rights of children and youth with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (b)(2) and (c) of this section shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

(Pub. L. 91-230, title VI, §615, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 788; amended Pub. L. 99-372, §§2, 3, Aug. 5, 1986, 100 Stat. 796, 797; Pub. L. 100-630, title I, §102(e), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101-476, title IX, §901(b)(71)-(75), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103-382, title III, §314(a)(1), Oct. 20, 1994, 108 Stat. 3936.)

AMENDMENT OF SECTION

For termination of amendment by section 314(a)(2) of Pub. L. 103-382, see Effective and Termination Dates of 1994 Amendment note below.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (e)(4)(D)(i), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Rehabilitation Act of 1973, referred to in subsec. (f), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Rehabilitation Act of 1973 is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

AMENDMENTS

1994—Subsec. (e)(3). Pub. L. 103-382, §314(a), temporarily amended par. (3) by designating existing provi-

sions as subpar. (A), substituting “Except as provided in subparagraph (B), during” for “During”, and adding subpar. (B). See Effective and Termination Dates of 1994 Amendment note below.

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, requiring no change in text.

Subsec. (a). Pub. L. 101-476, §901(b)(71), substituted “children with disabilities” for “handicapped children”.

Subsec. (b)(1)(A). Pub. L. 101-476, §901(b)(72), substituted “child with a disability” for “handicapped child”.

Subsec. (d)(1). Pub. L. 101-476, §901(b)(73), substituted “children with disabilities” for “handicapped children”.

Subsec. (e)(4)(B). Pub. L. 101-476, §901(b)(74), substituted “child or youth with a disability” for “handicapped child or youth”.

Subsec. (f). Pub. L. 101-476, §901(b)(75), substituted “children and youth with disabilities” for “handicapped children and youth”.

1988—Subsec. (b)(1)(D). Pub. L. 100-630, §102(e)(1), substituted “informs” for “inform”.

Subsec. (d). Pub. L. 100-630, §102(e)(2), substituted “shall be accorded—” for “shall be accorded” in introductory provisions, added pars. (1) to (4), and struck out former cls. (1) to (4) which read as follows: “(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children, (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written findings of fact and decisions (which findings and decisions shall also be transmitted to the advisory panel established pursuant to section 1413(a)(12) of this title).”

1986—Subsec. (e)(4). Pub. L. 99-372, §2, designated existing provision as subpar. (A) and added subpars. (B) to (G).

Subsec. (f). Pub. L. 99-372, §3, added subsec. (f).

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Section 314(a)(2) of Pub. L. 103-382 provided that: “Paragraph (1) [amending this section] and the amendments made by paragraph (1) shall be effective during the period beginning on the date of enactment of this Act [Oct. 20, 1994] and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 5 of Pub. L. 99-372, as amended by Pub. L. 101-476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: “The amendment made by section 2 [amending this section] shall apply with respect to actions or proceedings brought under section 615(e) of the Individuals with Disabilities Education Act [subsec. (e) of this section] after July 3, 1984, and actions or proceedings brought prior to July 4, 1984, under such section which were pending on July 4, 1984.”

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94-142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

GAO STUDY OF ATTORNEYS’ FEES PROVISION

Section 4 of Pub. L. 99-372 required Comptroller General, not later than June 30, 1989, to conduct a study of

impact of amendments to 20 U.S.C. 1415 made by section 2 of Pub. L. 99-372.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1414, 2328, 4304 of this title.

§ 1416. Withholding of payments

(a) Failure to comply with this subchapter; limitations; public notice

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

(1) that there has been a failure to comply substantially with any provision of section 1412 or section 1413 of this title, or

(2) that in the administration of the State plan there is a failure to comply with any provision of this subchapter or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan, the Secretary—

(A) shall, after notifying the State educational agency, withhold any further payments to the State under this subchapter, and

(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 1413(a)(2) of this title within the Secretary’s jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities.

If the Secretary withholds further payments under clause (A) or clause (B) the Secretary may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this subchapter to specified local educational agencies or intermediate educational units affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this subchapter, as specified in clause (1) or clause (2), no further payments shall be made to the State under this subchapter or under the Federal programs specified in section 1413(a)(2) of this title within the Secretary’s jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities, or payments by the State educational agency under this subchapter shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

(b) Judicial review

(1) If any State is dissatisfied with the Secretary's final action with respect to its State plan submitted under section 1413 of this title, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 91-230, title VI, §616, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 789; amended Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, §102(f), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101-476, title IX, §901(b)(76), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

1990—Subsec. (a)(2). Pub. L. 101-476, as amended by Pub. L. 102-119, which directed the substitution of "children with disabilities" for "handicapped children" each place such term appears in subpar. (B), was executed by making the substitution in subpar. (B) and in concluding provisions to reflect the probable intent of Congress.

1988—Subsec. (a). Pub. L. 100-630, §102(f)(1), substituted "pursuant to the State plan, the Secretary—

"(A) shall, after notifying the State educational agency, withhold any further payments to the State under this subchapter, and

"(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 1413(a)(2) of this title within the Secretary's jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children.

If the Secretary withholds" for "pursuant to the State plan, the Secretary (A) shall, after notifying the State educational agency, withhold any further payments to the State under this subchapter, and (B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 1413(a)(2) of this title within his jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children. If the Secretary withholds", and in concluding provisions, substituted "the Secretary may determine" for "he may deter-

mine" and "the Secretary's jurisdiction" for "his jurisdiction".

Subsec. (b)(1). Pub. L. 100-630, §102(f)(2), substituted "upon which the Secretary's action was based" for "on which he based his action".

Subsec. (b)(2). Pub. L. 100-630, §102(f)(3), substituted "the Secretary's previous" for "his previous".

1983—Pub. L. 98-199 substituted "Secretary" for "Commissioner" wherever appearing in text and "Secretary's" for "Commissioner's" in subsec. (b)(1).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94-142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1414, 1483 of this title.

§ 1417. Administration**(a) Duties of Secretary**

(1) In carrying out the Secretary's duties under this subchapter, the Secretary shall—

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of children with disabilities and the execution of the provisions of this subchapter;

(B) provide such short-term training programs and institutes as are necessary;

(C) disseminate information, and otherwise promote the education of all handicapped children within the States; and

(D) assure that each State shall, within one year after November 29, 1975 and every year thereafter, provide certification of the actual number of children with disabilities receiving special education and related services in such State.

(2) As soon as practicable after November 29, 1975, the Secretary shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting State plans under this subchapter in order to assure equity among the States.

(b) Rules and regulations

In carrying out the provisions of this subchapter, the Secretary shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

(c) Protection of rights and privacy of parents and students

The Secretary shall take appropriate action, in accordance with the provisions of section 1232g¹ of this title, to assure the protection of

¹ See References in Text note below.

the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this subchapter.

(d) Hiring of qualified personnel

The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 1418¹ of this title and to carry out the Secretary's duties under subsection (a)(1) of this section without regard to the provisions of title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

(Pub. L. 91-230, title VI, §617, as added Pub. L. 94-142, §5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100-630, title I, §102(g), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101-476, title IX, §901(b)(77), (78), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102-119, §25(a)(7), (b), Oct. 7, 1991, 105 Stat. 606, 607.)

REFERENCES IN TEXT

Section 1232g of this title, referred to in subsec. (c), was in the original a reference to section 438 of the General Education Provisions Act. Sections 432 and 438 of that Act were renumbered as sections 438 and 444, respectively, by Pub. L. 103-382, title II, §212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1232a and 1232g, respectively, of this title.

Section 1418 of this title, referred to in subsec. (d), was amended generally by Pub. L. 101-476, title II, §203, Oct. 30, 1990, 104 Stat. 1112; Pub. L. 99-457, title IV, §406, Oct. 8, 1986, 100 Stat. 1174; and Pub. L. 98-199, §8, Dec. 2, 1983, 97 Stat. 1360, and, as so amended, the subject matter of subsections (b), (c), and (d) of that section is generally contained in subsections (b) and (g).

The provisions of title 5 relating to appointments in the competitive service, referred to in subsec. (d), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Subsec. (b). Pub. L. 102-119, §25(a)(7), struck out “(and the Secretary, in carrying out the provisions of subsection (c))” before “shall issue”.

1990—Subsec. (a)(1). Pub. L. 101-476, as amended by Pub. L. 102-119, §25(b), substituted “children with disabilities” for “handicapped children” in subpars. (A) and (D).

1988—Subsec. (a)(1). Pub. L. 100-630, §102(g)(1), (2), substituted “the Secretary's duties” for “his duties” in introductory provisions, and in subpar. (D) inserted “and every year thereafter” after “1975”.

Subsec. (d). Pub. L. 100-630, §102(g)(3), substituted “the Secretary's duties” for “his duties”.

1983—Pub. L. 98-199 substituted “Secretary” for “Commissioner” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, except for subsecs. (a)(1)(D) and (b), which are effective Nov. 29, 1975, see section 8 of Pub. L. 94-142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1413, 1414, 1415, 1483 of this title.

§ 1418. Evaluation and program information

(a) Duties of Secretary

The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations—

(1) to assess progress in the implementation of this chapter;

(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

(A) free appropriate public education to children and youth with disabilities; and

(B) early intervention services to infants and toddlers with disabilities; and

(3) to provide—

(A) Congress with information relevant to policymaking; and

(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

(b) Collection of data

(1) In carrying out subsection (a) of this section, the Secretary, on at least an annual basis (except as provided in subparagraph (E)), shall obtain data concerning programs and projects assisted under this chapter and under other Federal laws relating to infants, toddlers, children, and youth with disabilities, and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under subchapter VIII of this chapter (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including—

(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services—

(i) in age groups 0-2 and 3-5, and

(ii) in age groups 6-11, 12-17, and 18-21, by disability category;

(B) the number of children and youth with disabilities in each State, by disability category, who—

(i) are participating in regular educational programs (consistent with the requirements of section¹ 1412(5)(B) and 1414(a)(1)(C)(iv) of this title);

(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

¹ So in original. Probably should be “sections”.

(iii) have been otherwise removed from the regular education environment;

(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

(D) the number and type of personnel that are employed in the provision of—

(i) special education and related services to children and youth with disabilities, by disability category served; and

(ii) early intervention services to infants and toddlers with disabilities; and

(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12–17 and 18–21 who have left the educational system.

(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 1413(a)(3)(A) of this title, including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel.

(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraphs (1) and (2) to achieve accurate and comparable information.

(c) Studies and investigations under grants, contracts, or cooperative agreements

(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private nonprofit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including—

(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

(C) developing and implementing a comprehensive system of personnel development

needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children and youth leave special education;

(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

(2)(A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this chapter. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under this section every 3 years.

(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this chapter, and in a form for inclusion in the annual report to Congress authorized under subsection (g) of this section.

(d) Cooperative agreements with State agencies

(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this chapter.

(2) The agreements referred to in paragraph (1) shall—

(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of this chapter; and

(B) be developed in consultation with the State Advisory Panel established under section 1413(a)(12) of this title, local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

(e) Studies to assess progress of program

(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this chapter, and to assess the impact and effectiveness of State and local efforts and efforts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to—

(A) completing a longitudinal study of a sample of students with disabilities, examining—

- (i) the full range of disabling conditions;
- (ii) the educational progress of students with disabilities while in special education; and
- (iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

(C) conducting pursuant to this subsection a study that examines the degree of disparity among States with regard to the placement in various educational settings of children and youth with similar disabilities, especially

those with mental retardation, and, to the extent that such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this chapter, and examines the current disparity among States in the percentage of children so classified.

(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs in their communities, and the factors that facilitate or impede such transition.

(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the individualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

(f) Integration of information

The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) of this section with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

(g) Annual report

(1)(A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of—

- (i) a free appropriate public education to all children and youth with disabilities; and
- (ii) early intervention services for infants and toddlers with disabilities.

(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each

House of Congress. The annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

(2) The Secretary shall include in each annual report under paragraph (1)—

(A) a compilation and analysis of data gathered under subsection (b) of this section and under subchapter VIII of this chapter; and

(B) a description of findings and determinations resulting from monitoring reviews of State implementation of this subchapter.

(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report—

(A) an index of all current projects funded under subchapters III through VII of this chapter; and

(B) data reported under sections 1422 and 1434 of this title.

(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under subchapter V of this chapter that the Secretary determines are relevant to the effective implementation of this chapter.

(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools).

(h) Authorization of appropriations

There are authorized to be appropriated \$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.

(Pub. L. 91-230, title VI, § 618, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98-199, §§ 3(b), 8, Dec. 2, 1983, 97 Stat. 1358, 1360; Pub. L. 99-457, title IV, § 406, Oct. 8, 1986, 100 Stat. 1174; Pub. L. 100-630, title I, § 102(h), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101-476, title II, § 203, Oct. 30, 1990, 104 Stat. 1112.)

AMENDMENTS

1990—Pub. L. 101-476, in amending section generally, made the following changes: in section catchline, inserted “and program information” after “Evaluation”; in text, substituted provisions relating to infants, toddlers, etc., with disabilities for provisions relating to handicapped infants, toddlers, etc.; in subsec. (b), redesignated existing provisions as par. (1) and added pars. (2) and (3); in subsec. (c), substituted provisions relating to studies of means of providing full educational opportunities for children with disabilities for provisions relating to study of need for improvements in Elementary and Secondary Education Amendments of

1970; in subsec. (d), struck out former par. (4), which related to dissemination of study results by Secretary; in subsec. (e), substituted provisions relating to studies to assess progress of programs and need for improvements in Elementary and Secondary Education Amendments of 1970 for provisions relating to longitudinal study and study of State and local expenditures on educational services for handicapped students; added subsec. (f); redesignated former subsec. (f) as (g), and in par. (3) substituted provisions relating to annual report for fiscal year 1991 and for every third year thereafter for provisions relating to annual report for fiscal year 1985 and for every third year thereafter, and in par. (4) substituted provisions relating to subchapter V of this chapter for provisions relating to special sections in fiscal year 1988 annual report; redesignated former subsec. (g) as (h), and substituted provisions authorizing appropriations for fiscal years 1991 through 1994 for provisions authorizing appropriations for fiscal years 1987 through 1989.

1988—Subsec. (a). Pub. L. 100-630, § 102(h)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

“(1) to assess progress in the implementation of this chapter, the impact, and the effectiveness of State and local efforts and efforts by the Secretary of Interior to provide free appropriate public education to all handicapped children and youth and early intervention services to handicapped infants and toddlers, and

“(2) to provide—

“(A) Congress with information relevant to policymaking, and

“(B) Federal, State, and local agencies and the Secretary of Interior with information relevant to program management, administration, and effectiveness with respect to such education and early intervention services.”

Subsec. (b)(1). Pub. L. 100-630, § 102(h)(2), substituted “intervention services—

“(A) in age groups 0-2 and 3-5, and

“(B) in age groups 6-11, 12-17, and 18-21,

by disability category,” for “intervention services (A) in age groups 0-2 and 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category.”

Subsec. (b)(3). Pub. L. 100-630, § 102(h)(3), substituted “or otherwise—

“(A) in age group 3-5, and

“(B) in age groups 6-11, 12-17, and 18-21,

by disability category and anticipated services for the next year,” for “or otherwise (A) in age group 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category and anticipated services for the next year.”

Subsec. (b)(6). Pub. L. 100-630, § 102(h)(4), substituted “handicapped children and youth—

“(A) in age group 3-5, and

“(B) in age groups 6-11, 12-17, and 18-21,

and by disability category.” for “handicapped children and youth (A) in age group 3-5 and (B) in age groups 6-11, 12-17, and 18-21 and by disability category.”

Subsec. (d)(4). Pub. L. 100-630, § 102(h)(5), substituted “resource” for “resources”.

Subsec. (f)(4). Pub. L. 100-630, § 102(h)(6), substituted “a free appropriate public education to—

“(A) handicapped infants, toddlers, children, and youth in rural areas,

“(B) handicapped migrants,

“(C) handicapped Indians (particularly programs operated under section 1411(f) of this title),

“(D) handicapped Native Hawaiian (and other native Pacific basin) children and youth, and

“(E) handicapped infants, toddlers, children, and youth with limited English proficiency.”

for “a free appropriate public education to handicapped infants, toddlers, children, and youth in rural areas and to handicapped migrants, handicapped Indians (particularly programs operated under section 1411(f) of this title), handicapped Native Hawaiian, and other native

Pacific basin children and youth, handicapped infants, toddlers, children and youth of limited English proficiency.”

Subsec. (f)(5). Pub. L. 100-630, §102(h)(7), substituted “on Disability” for “for the Handicapped” and inserted “the Secretary shall include” before “a description”.

1986—Pub. L. 99-457, in amending section generally, made the following changes: in subsec. (a), in par. (1), inserted “and efforts by the Secretary of Interior” and “and early intervention services to handicapped infants and toddlers”, and in par. (2), designated existing provisions as subpars. (A) and (B), and in subpar. (B) struck out “educational” after “and local” and inserted “and the Secretary of Interior” and “and early intervention services”; in subsec. (b), in introductory provision, substituted “In carrying out subsection (a) of this section” for “In carrying out the responsibilities under this section” and “relating to handicapped infants, toddlers, children, and youth” for “relating to the education of handicapped children and youth” and inserted “the Secretary of Interior” in par. (1), inserted reference to infants and toddlers and substituted “or early intervention services (A) in age groups 0-2 and 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category” for “(special education and related services) by disability category and by age group (3-5, 6-11, 12-17, and 18-21)”, in par. (2), struck out “, by disability category” after “regular educational programs” and inserted “by disability category” before “and the number of handicapped children”, in par. (3), inserted “(A) in age group 3-5, and (B) in age groups 6-11, 12-17, and 18-21” and struck out “and age” after “disability category”, in par. (4), inserted “and for early intervention services”, in par. (5), inserted “and early intervention services to handicapped infants and toddlers”, and in par. (6), inserted “and early intervention services” and substituted “infants and toddlers in the 0-2 age group and estimates of the number of handicapped children and youth (A) in age group 3-5 and (B) in age groups 6-11, 12-17, and 18-21 and by disability category” for “children and youth within each disability by age group (3-5, 6-11, 12-17, and 18-21) in need of improved services and the type of programs and services in need of improvement”; in subsec. (d), in par. (1), substituted “may enter into” for “is authorized to enter into” and inserted “and other State agencies”, in par. (2), in introductory provision, substituted “An agreement under paragraph (1)” for “Such agreements”, in subpar. (A), substituted “percent” for “per centum” and struck out “educational” after “participating State”, and in subpar. (B), inserted “and the provision of early intervention services to handicapped infants and toddlers”, in par. (3), struck out “educational” after “participating State”, and in par. (4), struck out “educational” after “studies to State”, inserted “regional resources centers, and clearinghouses established by this chapter”, and inserted “and the provision of early intervention services to handicapped infants and toddlers”; in subsec. (e)(2), inserted “shall” before “gather information needed”; in subsec. (f), in par. (1), inserted “and early intervention services for handicapped infants and toddlers”, substituted “The annual report shall be” for “The annual report is to be”, and struck out “and the National Advisory Committee on the Education of Handicapped Children and Youth,” after “Congress”, in par. (2), in introductory provision, inserted “under paragraph (1)”, and, in lettered subparagraphs, reversed the subject matter of subpars. (A) and (B) and in subpar. (F) substituted “recommendation” for “recommendations”, in par. (3), in introductory provisions, inserted “under paragraph (1)” and substituted “which is published in 1986” for “(published in 1986)”, in subpar. (A), inserted the reference to chapter VII, and in subpar. (B), substituted section 1461 for 1453, and added pars. (4) and (5); and in subsec. (g), substituted provisions authorizing appropriations for fiscal years 1987, 1988, and 1989 for provisions authorizing appropriations for fiscal years 1984, 1985, and 1986.

1983—Pub. L. 98-199, §8, amended section generally. Prior to the amendment, subsec. (a) required the Sec-

retary to measure and evaluate the impact of the program authorized under this subchapter and the effectiveness of State efforts to assure the free appropriate public education of all handicapped children; subsec. (b) required the Secretary to conduct, directly or by grant or contract, such studies, investigations, and evaluations as are necessary to assure effective implementation of this subchapter, and in carrying out his responsibilities under this section, to (1), through the National Center for Education Statistics, provide to the appropriate committees of each House of the Congress and to the general public at least annually, and shall update at least annually, programmatic information concerning programs and projects assisted under this subchapter and other Federal programs supporting the education of handicapped children, and such information from State and local educational agencies and other appropriate sources necessary for the implementation of this subchapter, including—(A) the number of handicapped children in each State, within each disability, who require special education and related services; (B) the number of handicapped children in each State, within each disability, receiving a free appropriate public education and the number of handicapped children who need and are not receiving a free appropriate public education in each such State; (C) the number of handicapped children in each State, within each disability, who are participating in regular educational programs, consistent with the requirements of section 1412(5)(B) and section 1414(a)(1)(C)(iv) of this title, and the number of handicapped children who have been placed in separate classes or separate school facilities, or who have been otherwise removed from the regular education environment; (D) the number of handicapped children who are enrolled in public or private institutions in each State and who are receiving a free appropriate public education, and the number of handicapped children who are in such institutions and who are not receiving a free appropriate public education; (E) the amount of Federal, State, and local expenditures in each State specifically available for special education and related services; and (F) the number of personnel, by disability category, employed in the education of handicapped children, and the estimated number of additional personnel needed to adequately carry out the policy established by this chapter; and (2) provide for the evaluation of programs and projects assisted under this subchapter through (A) the development of effective methods and procedures for evaluation; (B) the testing and validation of such evaluation methods and procedures; and (C) conducting actual evaluation studies designed to test the effectiveness of such programs and projects; subsec. (c) required the Secretary in developing and furnishing information under subclause (E) of clause (1) of subsection (b) of this section, to base such information upon a sampling of data available from State agencies, including the State educational agencies, and local educational agencies; subsec. (d) required the Secretary (1), not later than one hundred twenty days after the close of each fiscal year, to transmit to the appropriate committees of each House of the Congress a report on the progress being made toward the provision of free appropriate public education to all handicapped children, including a detailed description of all evaluation activities conducted under subsection (b) of this section, and (2) to include in each such report (A) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children in day or residential facilities; (B) any recommendations for change in the provisions of this subchapter, or any other Federal law providing support for the education of handicapped children; and (C) an evaluation of the effectiveness of the procedures undertaken by each such agency or unit to prevent erroneous classification of children as eligi-

ble to be counted under section 1411 of this title, including actions undertaken by the Secretary to carry out provisions of this chapter relating to such erroneous classification, and, in order to carry out such analyses and evaluations, to conduct a statistically valid survey for assessing the effectiveness of individualized educational programs; and subsec. (e) authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

Subsecs. (a) to (d). Pub. L. 98-199, §3(b), substituted "Secretary" for "Commissioner" wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, except for subsec. (a), which is effective Nov. 29, 1975, see section 8 of Pub. L. 94-142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409, 1411, 1413, 1417, 1421, 1422, 1425, 1431, 1433, 1434, 1441, 4304 of this title; title 29 section 795n; title 42 section 6022.

§ 1419. Preschool grants

(a) Grants for fiscal years 1987 through 1989; amount of grants

(1) For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the Secretary shall make a grant to any State which—

(A) has met the eligibility requirements of section 1412 of this title,

(B) has a State plan approved under section 1413 of this title, and

(C) provides special education and related services to children with disabilities aged three to five, inclusive.

(2)(A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed—

(i) \$300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 1411(a)(3) of this title, or

(ii) if the amount appropriated under subsection (e) of this section exceeds the product of \$300 and the total number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 1411(a)(3) of this title—

(I) \$300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 1411(a)(3) of this title, plus

(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal

year, in the number of children with disabilities aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated increase in the number of such children in such State.

(B) For fiscal year 1988, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be \$400 instead of \$300.

(C) For fiscal year 1989, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be \$500 instead of \$300.

(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed \$1,000 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 1411(a)(3) of this title.

(E) If the actual number of additional children served in a fiscal year differs from the estimate made under subparagraph (A)(ii)(II), the Secretary shall adjust (upwards or downwards) a State's allotment in the subsequent fiscal year.

(F)(i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed \$3,800 per estimated child with a disability aged three to five, inclusive, who will be receiving or child with a disability, age three to five, inclusive, who is receiving special education and related services in such State.

(ii) If the amount appropriated under subsection (e) of this section for any fiscal year exceeds the amount of grants which may be made to the States for such fiscal year, the excess amount appropriated shall remain available for obligation under this section for 2 succeeding fiscal years.

(3) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Grants for fiscal year 1990 and thereafter; amount of grants

(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

(A) has met the eligibility requirements of section 1412 of this title, and

(B) has a State plan approved under section 1413 of this title which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all children with disabilities aged three to five, inclusive, and for any two-year-old children provided services by the State under subsection (c)(2)(B)(iii) of this section or by a local educational agency or intermediate educational unit under subsection (f)(2) of this section.

(2) The Secretary may make a grant under paragraph (1) only for fiscal year 1990 and fiscal years thereafter, except that if—

(A) the aggregate amount that was appropriated under subsection (e) of this section for

fiscal years 1987, 1988, and 1989 was less than \$656,000,000, or

(B) the amount appropriated for fiscal year 1990 under subsection (e) of this section is less than \$306,000,000,

the Secretary may not make a grant under paragraph (1) until fiscal year 1991 and shall make a grant under subsection (a)(1) of this section for fiscal year 1990.

(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed \$1,500 for each child with a disability in such State aged three to five, inclusive.

(4) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) Distribution by State of funds

(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) of this section shall—

(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 1423(b)¹ of this title in effect through fiscal year 1987 and for direct and support services for children with disabilities, and

(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) of this section shall—

(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 20 percent of such grant—

(i) for planning and development of a comprehensive delivery system,

(ii) for direct and support services for children with disabilities, aged 3 to 5, inclusive, and

(iii) at the State's discretion, to provide a free appropriate public education, in accordance with this chapter, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under subchapter VIII of this chapter, and

(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

(3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to—

(A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) of this section or subsection (a)(2)(A)(ii)(I) of this section, as the case may be, as the number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 1411(a)(3) of this title in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and

(B) to the extent funds are available under subsection (a)(2)(A)(ii)(II) of this section, an amount which bears the same ratio to the amount of such funds as the estimated number of additional children with disabilities aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of such children in all local educational agencies and intermediate educational units in the State entitled to funds under this section.

(d) Insufficiency of appropriated amounts; reduction of maximum amounts receivable by States

If the sums appropriated under subsection (e) of this section for any fiscal year for making payments to States under subsection (a)(1) or (b)(1) of this section are not sufficient to pay in full the maximum amounts which all States may receive under such subsection for such fiscal year, the maximum amounts which all States may receive under such subsection for such fiscal year shall be ratably reduced by first ratably reducing amounts computed under the excess appropriation provision of subsection (a)(2)(A)(ii)(II) of this section. If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, the reduced maximum amounts shall be increased on the same basis as they were reduced.

(e) Authorization of appropriations

For grants under subsections (a)(1) and (b)(1) of this section there are authorized to be appropriated such sums as may be necessary.

(f) Use of appropriated funds

Each local educational agency or intermediate educational unit receiving funds under this section—

(1) shall use such funds to provide special education and related services to children with disabilities aged 3 to 5, inclusive, and

(2) may, if consistent with State policy, use such funds to provide a free appropriate public education, in accordance with this subchapter, to 2-year-old children with disabilities who will reach age 3 during the school year, wheth-

¹ See References in Text note below.

er or not such children are receiving, or have received, services under subchapter VIII of this chapter.

(g) Applicability of subchapter VIII

Subchapter VIII of this chapter does not apply to any child with disabilities receiving a free appropriate public education, in accordance with this subchapter, with funds received under this section.

(Pub. L. 91–230, title VI, § 619, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98–199, §§ 3(b), 9, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99–457, title II, § 201(a), Oct. 8, 1986, 100 Stat. 1155; Pub. L. 100–630, title I, § 102(i), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101–476, title IX, § 901(b)(79)–(93), Oct. 30, 1990, 104 Stat. 1145, 1146; Pub. L. 102–119, §§ 7, 25(b), Oct. 7, 1991, 105 Stat. 591, 607.)

REFERENCES IN TEXT

Section 1423(b) of this title, referred to in subsec. (c)(1)(B), was redesignated section 1423(c) of this title by Pub. L. 102–119, § 8(b)(1)(A), Oct. 7, 1991, 105 Stat. 592.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476, § 901(b). See 1990 Amendment note below.

Pub. L. 102–119, § 7(1), substituted “Preschool” for “Pre-school” in section catchline.

Subsec. (b)(1)(B). Pub. L. 102–119, § 7(2)(A), inserted before period at end “, and for any two-year-old children provided services by the State under subsection (c)(2)(B)(iii) of this section or by a local educational agency or intermediate educational unit under subsection (f)(2) of this section”.

Subsec. (b)(3). Pub. L. 102–119, § 7(2)(B), substituted “\$1,500” for “\$1,000”.

Subsec. (c)(2)(B). Pub. L. 102–119, § 7(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “use not more than 20 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 1423(b) of this title in effect through fiscal year 1987 and for direct and support services for children with disabilities, and”.

Subsec. (f). Pub. L. 102–119, § 7(4), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “Notwithstanding any other provision of law, unless enacted in express limitation of this subsection, amounts appropriated under this section for fiscal years 1987 and 1988 and received by a State whose allotment for the succeeding fiscal year is adjusted downwards under subsection (a)(2)(E) of this section shall remain available for obligation by such State, and by local educational agencies and intermediate educational units in such State, during the 2 fiscal years succeeding the fiscal year for which such amounts were appropriated.”

Subsec. (g). Pub. L. 102–119, § 7(5), added subsec. (g). 1990—Pub. L. 101–476, § 901(b), was amended in its directory language by Pub. L. 102–119, § 25(b), requiring no change in text.

Subsec. (a)(1)(C). Pub. L. 101–476, § 901(b)(79), substituted “children with disabilities” for “handicapped children”.

Subsec. (a)(2)(A)(i). Pub. L. 101–476, § 901(b)(80), substituted “child with a disability” for “handicapped child”.

Subsec. (a)(2)(A)(ii). Pub. L. 101–476, § 901(b)(81)–(83), substituted in introductory provisions and in subcl. (II) “children with disabilities” for “handicapped children” and in subcl. (I) “child with a disability” for “handicapped child”.

Subsec. (a)(2)(D), (F)(i). Pub. L. 101–476, § 901(b)(84), (85), substituted “child with a disability” for “handicapped child” wherever appearing.

Subsec. (b). Pub. L. 101–476, § 901(b)(86), (87), substituted “children with disabilities” for “handicapped children” in par. (1)(B) and “child with a disability” for “handicapped child” in par. (3).

Subsec. (c). Pub. L. 101–476, § 901(b)(88)–(93), substituted “children with disabilities” for “handicapped children” in pars. (1)(A), (B), (2)(A), (B), and (3)(B) and in two places in par. (3)(A).

1988—Subsec. (a)(2)(A)(ii)(II). Pub. L. 100–630, § 102(i)(1), inserted “increase in the” after “multiplied by the estimated”.

Subsec. (a)(2)(E). Pub. L. 100–630, § 102(i)(2), struck out “clause (ii)(II) of the applicable subparagraph,” after “estimate made under”.

Subsec. (b)(2)(A). Pub. L. 100–630, § 102(i)(3), substituted “or” for “and” at end.

Subsec. (c)(3)(B). Pub. L. 100–630, § 102(i)(4), substituted “amount of such funds” for “amount available under subsection (a)(2)(A)(ii)(II) of this section”, and “aggregate number of such children” for “aggregate number of handicapped children aged three to five, inclusive, who will be receiving special education and related services”.

Subsec. (f). Pub. L. 100–630, § 102(i)(5), added subsec. (f).

1986—Pub. L. 99–457 amended section generally, substituting provisions relating to pre-school grants, including provisions for grants for fiscal years 1987 and thereafter and the amount of such grants, distribution by State of funds, insufficiency of appropriated amounts, reduction of maximum amounts receivable by States, and authorization of appropriations for provisions relating to incentive grants, including provisions for authority to make grants, application, payment, ratable reduction or increase of payments, and authorization of appropriations.

1983—Subsecs. (a), (b). Pub. L. 98–199, § 3(b), substituted “Secretary” for “Commissioner”.

Subsec. (c). Pub. L. 98–199, § 3(b), 9, authorized use of payments for providing special education and related services for handicapped children from birth to three years of age and substituted “Secretary” for “Commissioner”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 201(c) of Pub. L. 99–457 provided that: “The amendment made by subsection (a) [amending this section] shall take effect with respect to the school year 1987–1988.”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–199 effective Dec. 2, 1983, see section 18 of Pub. L. 98–199, set out as a note under section 1401 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94–142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

PRESCHOOL GRANTS

Section 110 of Pub. L. 100–630, as amended by Pub. L. 101–476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: “The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1419(a)(1)].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1408, 1411, 1414a, 1476 of this title.

§ 1420. Payments**(a) Payments to States; distribution by States to local educational agencies and intermediate educational units**

The Secretary shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this subchapter. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this subchapter after the State educational agency has approved applications of such agencies or units for payments in accordance with section 1414(b) of this title.

(b) Advances, reimbursements, and installments

Payments under this subchapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

(Pub. L. 91-230, title VI, § 620, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98-199, § 3(b), Dec. 2, 1983, 97 Stat. 1358.)

AMENDMENTS

1983—Pub. L. 98-199 substituted “Secretary” for “Commissioner” wherever appearing.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94-142, set out as an Effective Date of 1975 Amendment note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1414, 1483 of this title.

SUBCHAPTER III—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF INDIVIDUALS WITH DISABILITIES**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in sections 1401, 1408, 1409, 1418, 1491n of this title.

§ 1421. Regional resource and Federal centers**(a) Establishment; functions**

The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers that focus on special education and related services and early intervention services. Each regional resource center shall provide consultation, technical assistance, and training, as requested, to State educational agencies and through such State educational agencies to

local educational agencies and to other appropriate public agencies providing special education and related services and early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center. Each regional resource center established or operated under this section shall—

(1) assist in identifying and solving persistent problems in providing quality special education and related services for children and youth with disabilities and early intervention services to infants and toddlers with disabilities and their families,

(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to children and youth with disabilities and their families and early intervention services to infants and toddlers with disabilities and their families,

(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant programs and projects conducted under this subchapter and subchapters IV through VII of this chapter and by the Department of Education,

(4) assist in the improvement of information dissemination to and training activities for professionals and parents of infants, toddlers, children, and youth with disabilities, and

(5) provide information to and training for agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this subchapter and subchapters IV through VII of this chapter.

(b) Considerations governing approval of application

In determining whether to approve an application for a project under subsection (a) of this section, the Secretary shall utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f) of this section, and, to the extent appropriate, consistent with requirements under section 1409 of this title, and shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a) of this section.

(c) Annual report; summaries

Each regional resource center shall report a summary of materials produced or developed and the summaries reported shall be included in the annual report to Congress required under section 1418 of this title.

(d) Coordinating technical assistance center

The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such na-

tional priorities. Such coordinating technical assistance center is authorized to—

(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this subchapter and subchapters IV through VII of this chapter, and shall make such information available to the regional resource centers on request;

(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.

(e) Amounts available for centers

Before using funds made available in any fiscal year to carry out this section for purposes of subsection (d) of this section, not less than the amount made available in the previous fiscal year for regional resource centers under subsection (a) of this section shall be made available for such centers and in no case shall more than \$500,000 be made available for the center under subsection (d) of this section.

(f) Development of operation guidelines and criteria

(1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

(2) Such guidelines and criteria shall include—

(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

(B) a description of the geographic region each Center is expected to serve;

(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

(E) a description of how a Center will be evaluated; and

(F) other guidelines and criteria deemed necessary.

(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.

(Pub. L. 91-230, title VI, §621, Apr. 13, 1970, 84 Stat. 181; Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99-457, title III, §301, Oct. 8, 1986, 100 Stat. 1159; Pub. L. 100-630, title I, §103(b), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101-476, title III, §301, title IX, §901(b)(95)-(99),

Oct. 30, 1990, 104 Stat. 1117, 1146; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, requiring no change in text.

Subsec. (a). Pub. L. 101-476, §301(a)(1)-(3), in introductory provisions inserted “that focus on special education and related services and early intervention services” after “regional resource centers”, “as requested,” after “training”, and “special education and related services and” after “agencies providing”, and struck out “and the findings of the Secretary in monitoring reports prepared by the Secretary under section 1417 of this title” after “served by the center”.

Subsec. (a)(1), (2). Pub. L. 101-476, §901(b)(95)-(98), substituted “children and youth with disabilities” and “infants and toddlers with disabilities” for “handicapped children and youth” and “handicapped infants and toddlers”, respectively.

Subsec. (a)(3). Pub. L. 101-476, §301(a)(4), substituted “relevant programs and projects conducted under this subchapter and subchapters IV through VII of this chapter and by” for “relevant projects conducted by”.

Subsec. (a)(4). Pub. L. 101-476, §901(b)(99), substituted “infants, toddlers, children, and youth with disabilities” for “handicapped infants, toddlers, children, and youth”.

Subsec. (b). Pub. L. 101-476, §301(b), inserted provisions relating to criteria consistent with needs identified by States, with requirements established by Secretary under subsec. (f) of this section, and with requirements of section 1409 of this title.

Subsec. (d). Pub. L. 101-476, §301(c), inserted “Such coordinating technical assistance center is authorized to—” and added pars. (1) to (4).

Subsec. (f). Pub. L. 101-476, §301(d), added subsec. (f). 1988—Subsec. (a). Pub. L. 100-630, §103(b)(1), substituted “appropriate public agencies” for “appropriate State agencies” in second sentence.

Subsec. (e). Pub. L. 100-630, §103(b)(2), substituted “in the previous fiscal year for regional resource centers under subsection (a) of this section shall be made available for such centers” for “for this section in the previous fiscal year shall be made available for regional resource centers under subsection (a) of this section”.

1986—Subsec. (a). Pub. L. 99-457 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, institutions of higher education, private nonprofit organizations, State educational agencies, or combinations of such agencies and institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers. Each regional resource center shall provide consultation, technical assistance, and training to State educational agencies and through such State agencies to local educational agencies. Each center established or operated under this section shall—

“(1) assist in identifying and solving persistent problems in providing quality special education and related services for handicapped children and youth;

“(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to handicapped children and youth and their families;

“(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this section and other relevant projects conducted by the Department of Education; and

“(4) assist in the improvement of information dissemination to and training activities for professionals and parents of handicapped children.”

Subsec. (b). Pub. L. 99-457, in amending subsec. (b) generally, substituted “project under subsection (a) of this section” for “project under this section”.

Subsec. (c). Pub. L. 99-457, in amending subsec. (c) generally, substituted “the summaries reported” for “this information”.

Subsecs. (d), (e). Pub. L. 99-457, in amending section generally, added subsecs. (d) and (e).

1983—Pub. L. 98-199, §10, amended section generally. Prior to amendment, section read as follows:

“(a) The Secretary is authorized to make grants to or contracts with institutions of higher education, State educational agencies, or combinations of such agencies or institutions, which combinations may include one or more local educational agencies, within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional centers which will develop and apply the best methods of appraising the special educational needs of handicapped children referred to them and will provide other services to assist in meeting such needs. Centers established or operated under this section shall (1) provide testing and educational evaluation to determine the special educational needs of handicapped children referred to such centers, (2) develop educational programs to meet those needs, and (3) assist schools and other appropriate agencies, organizations, and institutions in providing such educational programs through services such as consultation (including, in appropriate cases, consultation with parents or teachers of handicapped children at such regional centers), periodic re-examination and reevaluation of special educational programs, and other technical services.

“(b) In determining whether to approve an application for a project under this section, the Secretary shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to develop and apply, with the assistance of funds under this section, new methods, techniques, devices, or facilities relating to educational evaluation or education of handicapped children.”

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1422. Services for deaf-blind children and youth

(a) Grant and contract authority; types and scope of programs; governing considerations

(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies, local educational agencies, and designated lead agencies under subchapter VIII of this chapter to—

(A) assure deaf-blind infants, toddlers, children and youth provision of special education, early intervention, and related services as well as vocational and transitional services; and

(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to

facilitate such transition, including assistance related to independent living and competitive employment.

(2) For purposes of this section, the term “deaf-blind”, with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.

(3)(A) A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing—

(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

(iv) pilot projects that are designed to—

(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

(II) encourage eventual assumption of funding responsibility by State and local authorities;

(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

(B) The programs described in subparagraph (A) may include—

(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.

(4) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve, deaf-blind individuals; (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such

individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, supervised, semisupervised, or independent living programs.

(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for children and youth with deaf-blindness and their families.

(b) Contract authority for regional programs of technical assistance

The Secretary is also authorized to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of technical assistance in the education of deaf-blind children and youth.

(c) Annual report to Secretary; examination of numbers and services and revision of numbers; annual report to Congress: summary of data

(1) Programs supported under this section shall report annually to the Secretary on (A) the numbers of deaf-blind children and youth served by age, severity, sex, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly served by each activity; (C) the types of services provided and the setting in which the services are provided; and (D) student outcomes, where appropriate.

(2) The Secretary shall examine the number of deaf-blind children and youth (A) reported under subparagraph (c)(1)(A) and by the States; (B) served by the programs under subchapter II of this chapter; and (C) the Deaf-Blind Registry of each State. The Secretary shall revise the count of deaf-blind children and youth to reflect the most accurate count.

(3) The Secretary shall summarize these data for submission in the annual report required under section 1418 of this title.

(d) National clearinghouse for children and youth with deaf-blindness

The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness—

(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

(3) to maintain a computerized data base on local, regional, and national resources; and

(4) to respond to information requests from professionals, parents, and members of the community.

(e) Country-wide availability of assistance

In carrying out this section, the Secretary shall take into consideration the availability

and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.

(f) Grants to, or contracts and cooperative agreements with, appropriate organizations and agencies

The Secretary may make grants to, or enter into contracts or cooperative agreements with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

(1) research to identify and meet the full range of special needs of such children and youth; and

(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.

(Pub. L. 91-230, title VI, §622, Apr. 13, 1970, 84 Stat. 182; Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1364; Pub. L. 99-457, title III, §302, Oct. 8, 1986, 100 Stat. 1160; Pub. L. 100-630, title I, §103(c), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101-476, title III, §302, Oct. 30, 1990, 104 Stat. 1118; Pub. L. 102-119, §25(a)(8), Oct. 7, 1991, 105 Stat. 606; Pub. L. 103-382, title III, §391(f)(3), Oct. 20, 1994, 108 Stat. 4023.)

AMENDMENTS

1994—Subsec. (c)(2)(B). Pub. L. 103-382 struck out “and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965” after “subchapter II of this chapter”.

1991—Subsec. (a)(1). Pub. L. 102-119 inserted comma after “State educational agencies” in introductory provisions.

1990—Subsec. (a)(1). Pub. L. 101-476, §302(a)(1)(A), in introductory provisions inserted “local educational agencies, and designated lead agencies under subchapter VIII of this chapter”.

Subsec. (a)(1)(A). Pub. L. 101-476, §302(a)(1)(B), inserted provisions relating to infants and toddlers and provisions relating to early intervention.

Subsec. (a)(1)(B). Pub. L. 101-476, §302(a)(1)(C), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “make available to deaf-blind youth, upon attaining the age of twenty-two, programs and services to facilitate their transition from educational to other services.”

Subsec. (a)(2). Pub. L. 101-476, §301(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 101-476, §302(a)(2), (3), redesignated par. (2) as (3) and amended it generally. Prior to amendment, par. (3) read as follows: “A grant, cooperative agreement, or contract pursuant to paragraph (1)(A) may be made only for programs providing (A) technical assistance to agencies, institutions, or organizations providing educational services to deaf-blind children or youth; (B) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind children or youth; (C) replication of successful innovative approaches to providing educational or related services to deaf-blind children and youth; and (D) facilitation of parental involvement in the education of their deaf-blind children and youth. Such programs may include—

“(i) the diagnosis and educational evaluation of children and youth at risk of being certified deaf-blind;

“(ii) programs of adjustment, education, and orientation for deaf-blind children and youth; and
 “(iii) consultative, counseling, and training services for the families of deaf-blind children and youth.”

Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 101-476, §302(a)(2), (4), redesignated par. (3) as (4) and in subpar. (A) substituted “technical assistance to agencies, institutions, and organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve, deaf-blind individuals” for “technical assistance to agencies, institutions, and organizations serving, or proposing to serve, deaf-blind individuals who have attained age twenty-two years” and in subpar. (C) inserted “supervised,” after “rehabilitative,”. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 101-476, §302(a)(2), (5), redesignated par. (4) as (5) and amended it generally. Prior to amendment, par. (5) read as follows: “In carrying out this subsection, the Secretary shall take into consideration the need for a center for deaf-blind children and youth in light of the general availability and quality of existing services for such children and youth in the part of the country involved.”

Subsec. (c)(1). Pub. L. 101-476, §302(b), in cl. (A) inserted “sex,” after “severity,” in cl. (C) inserted “and the setting in which the services are provided” after “services provided”, and added cl. (D).

Subsec. (d). Pub. L. 101-476, §302(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The Secretary shall disseminate materials and information concerning effective practices in working with deaf-blind children and youth.”

Subsec. (e). Pub. L. 101-476, §302(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for severely handicapped children and youth, including deaf-blind children and youth.”

Subsec. (f). Pub. L. 101-476, §302(e), substituted “with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

“(1) research to identify and meet the full range of special needs of such children and youth; and

“(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness”

for “with the entities under section 1424(a) of this title for the purposes in such section”.

1988—Subsec. (a)(1)(B). Pub. L. 100-630, §103(c)(1), inserted a comma after “youth”.

Subsec. (c)(2)(B). Pub. L. 100-630, §103(c)(2), substituted “subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965” for “subpart 2 of part B, title I, of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2771 et seq.] (as modified by chapter 1 of the Education Consolidation and Improvement Act of 1981)”.

1986—Subsecs. (e), (f). Pub. L. 99-457 added subsecs. (e) and (f).

1983—Pub. L. 98-199, §10, amended section generally, substituting in subsec. (a) provisions for grant and contract authority for types and scope of certain programs for provisions containing Congressional declaration of policy in providing certain services for deaf-blind children through limited number of model centers; substituting in subsec. (b) provisions respecting contract authority for regional programs of technical assistance for provisions respecting grant and contract authority for establishment and operation of model centers for

deaf-blind children; adding subsec. (c) and redesignating former subsec. (c) as subsec. (a)(4); and substituting in subsec. (d) provisions respecting dissemination of materials and information concerning working practices for provisions respecting necessary services to be provided by model centers.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1418, 1427 of this title.

§ 1423. Early education for children with disabilities

(a) Contracts, grants, and cooperative agreements; purpose; coordination with community programs; national dispersion in urban and rural areas; Federal share; non-Federal contributions; arrangements with Indian tribes

(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for children with disabilities, including individuals who are at risk of having substantial developmental delays if early intervention services are not provided, which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special needs of these children. Such programs shall include activities and services designed to—

(A) facilitate the intellectual, emotional, physical, mental, social, speech or other communication mode, language development, and self-help skills of such children,

(B) provide family education and include a parent or their representative of such child, as well as encourage the participation of the parents of such children in the development and operation of any such program,

(C) acquaint the community to be served by any such program with the special needs and potentialities of such children,

(D) offer training about exemplary models and practices, including interdisciplinary models and practices, to State and local personnel who provide services to children with disabilities from birth through age 8 and to the parents of such children,

(E) support the adoption of exemplary models and practices in States and local communities, including the involvement of adult role models with disabilities at all levels of the program,

(F) facilitate and improve the early identification of infants and toddlers with disabili-

ities or those infants and toddlers at risk of having developmental disabilities.

(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under subchapter VIII of this chapter is not the State educational agency),

(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities,

(I) facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under subchapters II and VIII of this chapter,

(J) support statewide projects in conjunction with a State's application under subchapter VIII of this chapter and a State's plan under subchapter II of this chapter, to change the delivery of early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments, and

(K) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

(2) Programs authorized by paragraph (1) shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served and with similar programs operated by other public agencies in such community.

(3) As much as is feasible, programs assisted under paragraph (1) shall be geographically dispersed throughout the Nation in urban as well as rural areas.

(4)(A) Except as provided in subparagraph (B), no arrangement under paragraph (1) shall provide for the payment of more than 90 percent of the total annual costs of development, operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

(B) The Secretary may waive the requirement of subparagraph (A) in the case of an arrangement entered into under paragraph (1) with governing bodies of Indian tribes located on Federal or State reservations and with consortia of such bodies.

(b) Grants for identifying, tracking, and referring children at-risk of having developmental delays

The Secretary shall fund up to 5 grants to States for 3 years for the purpose of establishing an inter-agency, multi-disciplinary, and coordinated statewide system for the identification, tracking, and referral to appropriate services for all categories of children who are biologically and/or environmentally at-risk of having developmental delays. To the extent feasible, such grants shall be geographically dispersed

throughout the Nation in urban and rural areas. Each grantee must—

(1) create a data system within the first year to document the numbers and types of at-risk children in the State and that develops linkages with all appropriate existing child data and tracking systems that assist in providing information;

(2) coordinate activities with the child find component required under subchapters II and VIII of this chapter;

(3) demonstrate the involvement of the lead agency and the State interagency coordinating council under subchapter VIII of this chapter as well as the State educational agency under subchapter II of this chapter;

(4) coordinate with other relevant prevention activities across appropriate service agencies, organizations, councils, and commissions;

(5) define an appropriate service delivery system based on children with various types of at-risk factors;

(6) document the need for additional services as well as barriers; and

(7) disseminate findings and information in the manner prescribed in section 1409(g) of this title.

(c) Technical assistance development system

The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to children with disabilities. This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H [subchapter VIII] State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.

(d) Early childhood research institutes

The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for children with disabilities and their families. Such institutes shall disseminate this information in the manner prescribed in section 1409(g) of this title.

(e) Grants or contracts with organizations to identify needs of children with disabilities and for training of personnel

The Secretary may make grants to, or enter into contracts or cooperative agreements under

this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of children with disabilities and for training of personnel for programs specifically designed for children with disabilities, including programs to integrate children with disabilities into regular preschool programs.

(f) Notice in Federal Register of intent to accept applications for grants, contracts, etc.

At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections (c) and (d) of this section, the Secretary shall publish in the Federal Register a notice of intent to accept applications for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

(g) “Children with disabilities” defined

For purposes of this section the term “children with disabilities” includes children from birth through eight years of age, including infants and toddlers with disabilities.

(h) Organization, integration, and presentation of developed knowledge

The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.

(Pub. L. 91-230, title VI, § 623, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98-199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1365; Pub. L. 99-457, title III, § 303, Oct. 8, 1986, 100 Stat. 1161; Pub. L. 100-630, title I, § 103(d), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101-476, title III, § 303, title IX, § 901(b)(100)-(106), Oct. 30, 1990, 104 Stat. 1121, 1146, 1147; Pub. L. 102-119, §§ 8, 25(a)(9), (b), Oct. 7, 1991, 105 Stat. 592, 606, 607.)

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476, § 901(b). See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102-119, § 8(a)(1), inserted “, including individuals who are at risk of having substantial developmental delays if early intervention services are not provided,” after “disabilities” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 102-119, § 25(a)(9), struck out “and” after “mode”.

Subsec. (a)(1)(F) to (H). Pub. L. 102-119, § 8(a)(2)(A), realigned margins of subpars. (F) to (H).

Subsec. (a)(1)(I) to (K). Pub. L. 102-119, § 8(a)(2)(A)-(D), added subpars. (I) and (J), redesignated former subpar. (I) as (K) and realigned its margins.

Subsecs. (b) to (e). Pub. L. 102-119, § 8(b)(1), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 102-119, § 8(b)(1)(A), (2), redesignated subsec. (e) as (f) and substituted “subsections (c) and (d) of this section” for “subsections (b) and (c) of this section”. Former subsec. (f) redesignated (g).

Subsecs. (g), (h). Pub. L. 102-119, § 8(b)(1)(A), redesignated subsecs. (f) and (g) as (g) and (h), respectively.

1990—Pub. L. 101-476, § 901(b), was amended in its directory language by Pub. L. 102-119, § 25(b), requiring no change in text.

Pub. L. 101-476, § 901(b)(100), substituted “children with disabilities” for “handicapped children” in section catchline.

Subsec. (a)(1). Pub. L. 101-476, §§ 303(a)(1), 901(b)(101), substituted in introductory provisions “children with disabilities” for “handicapped children” and “needs of these children” for “problems of such children”.

Subsec. (a)(1)(A). Pub. L. 101-476, § 303(a)(2), inserted “or other communication mode and” after “speech”.

Subsec. (a)(1)(B). Pub. L. 101-476, § 303(a)(3), inserted “provide family education and include a parent or their representative of such child, as well as” before “encourage”.

Subsec. (a)(1)(C). Pub. L. 101-476, § 303(a)(4), substituted “special needs” for “problems”.

Subsec. (a)(1)(D). Pub. L. 101-476, §§ 303(a)(5), 901(b)(102), inserted “, including interdisciplinary models and practices,” after “practices”, substituted “children with disabilities” for “handicapped children”, and inserted “and to the parents of such children” after “age 8”.

Subsec. (a)(1)(E). Pub. L. 101-476, § 303(a)(6), inserted before period at end “, including the involvement of adult role models with disabilities at all levels of the program”.

Subsec. (a)(1)(F) to (I). Pub. L. 101-476, § 303(a)(7), added subpars. (F) to (I).

Subsec. (b). Pub. L. 101-476, §§ 303(b), 901(b)(103), substituted “children with disabilities” for “handicapped children” and inserted at end “This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.”

Subsec. (c). Pub. L. 101-476, §§ 303(c), 901(b)(104), substituted “children with disabilities” for “handicapped children” and inserted at end “Such institutes shall disseminate this information in the manner prescribed in section 1409(g) of this title.”

Subsec. (d). Pub. L. 101-476, §§ 303(d), 901(b)(105), substituted “children with disabilities” for “handicapped children” in two places and inserted before period at end “, including programs to integrate children with disabilities into regular preschool programs”.

Subsec. (f). Pub. L. 101-476, §§ 303(e), 901(b)(106), substituted “children with disabilities” for “handicapped children” and inserted before period at end “, including infants and toddlers with disabilities”.

Subsec. (g). Pub. L. 101-476, § 303(f), added subsec. (g).

1988—Subsec. (a). Pub. L. 100-630, § 103(d)(1), substituted “designed to—” for “designed to” in introductory provisions, added subpars. (A) to (E), and struck out former cls. (1) to (5) which read as follows: “(1) facilitate the intellectual, emotional, physical, mental, social, speech, language development, and self-help skills of such children, (2) encourage the participation of the parents of such children in the development and operation of any such program, and (3) acquaint the community to be served by any such program with the problems and potentialities of such children, (4) offer training about exemplary models and practices to State and local personnel who provide services to handicapped children from birth through eight, and (5) support the adaption of exemplary models and practices in States and local communities.”

Subsec. (d). Pub. L. 100-630, § 103(d)(2), inserted “or” before “enter”.

Subsec. (e). Pub. L. 100-630, §103(d)(3), substituted “applications” for “application”.

1986—Pub. L. 99-457 amended section generally, revising and restating as subsecs. (a) to (f) provisions formerly contained in subsecs. (a) to (c).

1983—Pub. L. 98-199, §10, amended section generally. Prior to amendment, section read as follows:

“(a) The Secretary is authorized to arrange by contract, grant, or otherwise with appropriate public agencies and private nonprofit organizations, for the development and carrying out by such agencies and organizations of experimental preschool and early education programs for handicapped children which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall be distributed to the greatest extent possible throughout the Nation, and shall be carried out both in urban and in rural areas. Such programs shall include activities and services designed to (1) facilitate the intellectual, emotional, physical, mental, social, and language development of such children; (2) encourage the participation of the parents of such children in the development and operation of any such program; and (3) acquaint the community to be served by any such program with the problems and potentialities of such children.

“(b) Each arrangement for developing or carrying out a program authorized by this section shall provide for the effective coordination of each such program with similar programs in the schools of the community to be served by such a program.

“(c) No arrangement pursuant to this section shall provide for the payment of more than 90 per centum of the cost of developing, carrying out, or evaluating such a program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services.”

Subsec. (a). Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1419, 1427 of this title.

§ 1424. Programs for children with severe disabilities

(a) Grant and contract authority

The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—

(1) research to identify and meet the full range of special education, related services, and early intervention needs of such children and youth with disabilities, including their need for transportation to and from school,

(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of such children and youth with disabilities,

(3) training of special and regular education, related services, and early intervention personnel for programs specifically designed for such infants, toddlers, children and youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,

(4) dissemination of materials and information about practices found effective in working with such children and youth by utilizing existing networks as prescribed in section 1409(g) of this title¹ and

(5) statewide projects, in conjunction with the State's plan under subchapter II of this chapter, to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.

(b) Extended school year demonstration programs

The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or private nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.

(c) Coordination of activities with similar activities under other provisions

In making grants and entering into contracts and cooperative agreements under subsection (a) of this section, the Secretary shall ensure that the activities funded under such grants, contracts, or cooperative agreements will be coordinated with similar activities funded from grants and contracts under other sections of this chapter.

(d) National geographic dispersion of programs in urban and rural areas

To the extent feasible, programs authorized by subsection (a) of this section shall be geographically dispersed throughout the Nation in urban and rural areas.

(e) Priority programs

In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.

(Pub. L. 91-230, title VI, §624, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98-199, §§3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1366; Pub. L. 99-457, title III, §304, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100-630, title I, §103(e), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101-476, title III, §304, title IX, §901(b)(107)-(110), Oct. 30, 1990, 104 Stat. 1122, 1147; Pub. L. 102-119, §25(a)(10), (b), Oct. 7, 1991, 105 Stat. 606, 607.)

AMENDMENTS

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

¹ So in original. Probably should be followed by a comma.

Subsec. (a)(1). Pub. L. 102-119, §25(a)(10), substituted “of such children and youth with disabilities, including their need for transportation to and from school,” for “, including transportation to and from school of such children and youth with disabilities.”

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, §25(b), requiring no change in text.

Pub. L. 101-476, §§304(a), 901(b)(107), amended section catchline identically, substituting “children with severe disabilities” for “severely handicapped children”.

Subsec. (a). Pub. L. 101-476, §901(b)(108), which directed the substitution of “children and youth with severe disabilities” for “severely handicapped children and youth”, could not be executed because “severely handicapped children and youth” did not appear following the general amendment of introductory provisions by Pub. L. 101-476, §304(b)(1). See below.

Pub. L. 101-476, §304(b)(1), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The Secretary may make grants to, or enter into contracts or cooperative agreements with, such organizations or institutions, as are determined by the Secretary to be appropriate, to address the needs of severely handicapped children and youth, for—”

Subsec. (a)(1). Pub. L. 101-476, §§304(b)(2), 901(b)(109), substituted “special education, related services, and early intervention needs, including transportation to and from school of such children and youth with disabilities” for “special needs of such handicapped children and youth”.

Subsec. (a)(2). Pub. L. 101-476, §901(b)(110), substituted “children and youth with disabilities” for “handicapped children and youth”.

Subsec. (a)(3). Pub. L. 101-476, §304(b)(3), substituted “training of special and regular education, related services, and early intervention personnel for programs specifically designed for such infants, toddlers, children and youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,” for “training of personnel for programs specifically designed for such children and youth, and”.

Subsec. (a)(4). Pub. L. 101-476, §304(b)(4), inserted provisions relating to utilization of existing networks under section 1409(g) of this title.

Subsec. (a)(5). Pub. L. 101-476, §304(b)(5), added par. (5).

Subsecs. (b) to (d). Pub. L. 101-476, §304(b), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (e). Pub. L. 101-476, §304(c), added subsec. (e). 1988—Subsec. (a)(2). Pub. L. 100-630, §103(e)(1), struck out comma after “in”.

Subsec. (a)(3). Pub. L. 100-630, §103(e)(2), inserted “and youth” after “such children”.

Subsec. (b). Pub. L. 100-630, §103(e)(3), substituted “making grants and entering into contracts and cooperative agreements” for “making grants and contracts” and “such grants, contracts, or cooperative agreements” for “such grants and contracts”.

Subsec. (c). Pub. L. 100-630, §103(e)(4), struck out comma after “programs” and substituted “Nation” for “nation”.

1986—Subsec. (a). Pub. L. 99-457 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with such organizations or institutions, as are determined by the Secretary to be appropriate, consistent with the purposes of this subchapter, for—

“(1) research to identify and meet the full range of special needs of handicapped children and youth;

“(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of handicapped children and youth;

“(3) training of personnel for programs specifically designed for handicapped children; and

“(4) dissemination of materials and information about practices found effective in working with such children and youth.”

Subsec. (b). Pub. L. 99-457, in amending subsec. (b) generally, substituted “subsection (a) of this section” for “this section”.

Subsec. (c). Pub. L. 99-457, in amending subsec. (c) generally, substituted provisions relating to the dispersal of programs throughout the nation in urban and rural areas for provisions authorizing the Secretary to address the needs of the severely handicapped.

1983—Pub. L. 98-199, §10, amended section generally. Prior to amendment, subsec. (a) authorized the Secretary, either as part of any grant or contract under this subchapter, or by separate grant to, or contract with, an agency, organization, or institution operating a center or providing a service which meets such requirements as the Secretary determines to be appropriate, consistent with the purposes of this subchapter, to pay all or part of the cost of such activities as—(1) research to identify and meet the full range of special needs of handicapped children; (2) development or demonstration of new, or improvements in existing, methods, approaches, or techniques, which would contribute to the adjustment and education of such children; (3) training (either directly or otherwise) of professional and allied personnel engaged or preparing to engage in programs specifically designed for such children, including payment of stipends for trainees and allowances for travel and other expenses for them and their dependents; and (4) dissemination of materials and information about practices found effective in working with such children; and subsec. (b) required the Secretary, in making grants and contracts under this section, to insure that the activities funded under such grants and contracts be coordinated with similar activities funded from grants and contracts under other subchapters of this chapter.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1424a. Postsecondary education

(a)(1) The Secretary may make grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities. Such model programs may include joint projects that coordinate with special education and transition services.

(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4 regional centers for the deaf and to model programs for

individuals with disabling conditions other than deafness—

(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of individuals with disabilities,

(B) for programs that coordinate, facilitate, and encourage education of individuals with disabilities with their nondisabled peers;¹ and

(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities.

(3) Persons operating programs for persons with disabilities under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 1433(b)² of this title.

(4) At least one year before the termination of a grant or contract with any of the 4 regional centers for the deaf, the Secretary shall publish in the Federal Register a notice of intent to accept applications for such grant or contract, contingent on the appropriation of sufficient funds by Congress.

(5) To the extent feasible, programs authorized by paragraph (1) shall be geographically dispersed throughout the Nation in urban and rural areas.

(6) Of the sums made available for programs under paragraph (1), not less than \$4,000,000 shall first be available for the 4 regional centers for the deaf. The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under this subsection. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for subchapters III–VII of this chapter is extended by September 30, 1994.

(b) For purposes of subsection (a) of this section, the term “individuals with disabilities” means individuals—

(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(2) who, by reason thereof, need special education and related services.

(Pub. L. 91–230, title VI, § 625, as added Pub. L. 93–380, title VI, § 616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, § 305, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100–630, title I, § 103(f), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, § 305, title IX, § 901(b)(111)–(118), Oct. 30, 1990, 104 Stat. 1123, 1147; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–421, title II, § 201(a), Oct. 16, 1992, 106 Stat. 2164.)

¹ So in original. The semicolon probably should be a comma.

² See References in Text note below.

REFERENCES IN TEXT

Section 1433 of this title, referred to in subsec. (a)(3), was amended generally by Pub. L. 101–476, title IV, § 403, Oct. 30, 1990, 104 Stat. 1133, and, as so amended, provisions of subsec. (b) relating to a clearinghouse on postsecondary education for individuals with disabilities are contained in subsec. (c).

AMENDMENTS

1992—Subsec. (a)(6). Pub. L. 102–421 inserted at end “The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under this subsection. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for subchapters III–VII of this chapter is extended by September 30, 1994.”

1991—Pub. L. 102–119 amended directory language of Pub. L. 101–476, § 901(b). See 1990 Amendment note below.

1990—Pub. L. 101–476, § 901(b), was amended in its directory language by Pub. L. 102–119, requiring no change in text.

Subsec. (a)(1). Pub. L. 101–476, §§ 305(a)(1), 901(b)(111), substituted “individuals with disabilities” for “handicapped individuals” and inserted at end “Such model programs may include joint projects that coordinate with special education and transition services.”

Subsec. (a)(2). Pub. L. 101–476, § 901(b)(112), substituted “disabling” for “handicapping”.

Subsec. (a)(2)(A). Pub. L. 101–476, § 901(b)(113), substituted “individuals with disabilities” for “handicapped individuals”.

Subsec. (a)(2)(B). Pub. L. 101–476, § 901(b)(114), (115), substituted “individuals with disabilities” and “non-disabled” for “handicapped individuals” and “non-handicapped”, respectively.

Subsec. (a)(2)(C). Pub. L. 101–476, § 305(a)(2), added subpar. (C).

Subsec. (a)(3). Pub. L. 101–476, § 901(b)(116), substituted “persons with disabilities” for “handicapped persons”.

Subsec. (a)(6). Pub. L. 101–476, § 305(a)(3), substituted “\$4,000,000” for “\$2,000,000”.

Subsec. (b). Pub. L. 101–476, § 901(b)(117), (118), which directed the substitution of “individuals with disabilities” and “visually disabled” for “handicapped individuals” and “visually handicapped”, respectively, could not be executed because those terms did not appear following the general amendment by Pub. L. 101–476, § 305(b). See below.

Pub. L. 101–476, § 305(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For the purposes of subsection (a) of this section the term ‘handicapped individuals’ means individuals who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired individuals, or individuals with specific learning disabilities who by reason thereof require special education and related services.”

1988—Subsec. (a)(4). Pub. L. 100–630, § 103(f)(1), substituted “applications” for “application”.

Subsec. (a)(5). Pub. L. 100–630, § 103(f)(2), substituted “dispersed throughout the Nation” for “dispensed throughout the nation”.

1986—Subsec. (a). Pub. L. 99–457 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(a)(1) The Secretary is authorized to make grants to or enter into contracts with State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

“(2) In making grants or contracts on a competitive basis under this section, the Secretary shall give prior-

ity consideration to the four regional centers for the deaf and to model programs for individuals with handicapping conditions other than deafness—

“(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of handicapped individuals; and

“(B) for programs that coordinate, facilitate, and encourage education of handicapped individuals with their nonhandicapped peers.

“(3) Of the sums made available for programs under this section, not less than \$2,000,000 shall first be available for the four regional centers for the deaf.”

Subsec. (b). Pub. L. 99-457, in amending subsec. (b) generally, substituted “subsection (a) of this section” for “this section” and struck out “or” after “orthopedically impaired.”

1983—Pub. L. 98-199, §10, amended section generally. Prior to amendment, subsec. (a) authorized the Secretary to make grants to or contracts with institutions of higher education, including junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development and operation of specially designed or modified programs of vocational, technical, postsecondary, or adult education for deaf or other handicapped persons; subsec. (b) required the Secretary in making grants or contracts authorized by this section, to give priority consideration to (1) programs serving multi-state regions or large population centers; (2) programs adapting existing programs of vocational, technical, postsecondary, or adult education to the special needs of handicapped persons; and (3) programs designed to serve areas where a need for such services is clearly demonstrated; and subsec. (c), for purposes of this section, defined “handicapped persons” as meaning persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, crippled, or in other ways health impaired and by reason thereof require special education programming and related services.

Subsecs. (a), (b). Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner”.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 221 of title II of Pub. L. 102-421 provided that: “The amendments described in this title [amending this section and sections 1431 and 1441 of this title] shall take effect on October 1, 1992.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as a note under section 1221-1 of this title.

STUDY OF REGIONAL CENTERS

Section 201(b) of Pub. L. 102-421 directed a General Accounting Office study of the four regional centers for the deaf under 20 U.S.C. 1424a(a)(2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1425. Secondary education and transitional services for youth with disabilities

(a) Grant and contract authority; statement of purposes; national geographic dispersion in urban and rural areas

The Secretary may make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act [29 U.S.C. 1501 et seq.]) to—

(1) strengthen and coordinate special education and related services for youth with disabilities currently in school or who recently left school to assist them in the transition to postsecondary education, vocational training, competitive employment (including supported employment), continuing education, independent and community living, or adult services,

(2) stimulate the improvement and development of programs for secondary special education, and

(3) stimulate the improvement of the vocational and life skills of students with disabilities to enable them to be better prepared for transition to adult life and services.

To the extent feasible, such programs shall be geographically dispersed throughout the Nation in urban and rural areas.

(b) Description of specific projects

Projects assisted under subsection (a) of this section may include—

(1) developing strategies and techniques for transition to independent living, vocational training, vocational rehabilitation, postsecondary education, and competitive employment (including supported employment) for youth with disabilities,

(2) establishing demonstration models for services, programs, and individualized education programs, which emphasize vocational training, independent living, transitional services, and placement for youth with disabilities,

(3) conducting demographic studies which provide information on the numbers, age levels, types of disabling conditions, and services required for youth with disabilities in need of transitional programs,

(4) specially designed vocational programs to increase the potential for competitive employment for youth with disabilities,

(5) research and development projects for exemplary service delivery models and the replication and dissemination of successful models,

(6) initiating cooperative models among educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, and public employment, and employers, which facilitate the planning and developing of transitional services for youth with disabilities to postsecondary education, vocational training, employment, continuing education, and adult services,

(7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for youth with disabilities,

(8) conducting studies which provide information on the numbers, age levels, types of disabling conditions and reasons why some youth with disabilities remain to complete school programs while others drop out,

(9) developing curriculum and instructional techniques in special education and related services that will improve the acquisition of skills by students with disabilities necessary for transition to adult life and services,

(10) specially designed or adapted physical education and therapeutic recreation programs to facilitate the full participation of youths with disabilities in community programs, and

(11) developing and disseminating exemplary programs and practices that meet the unique needs of students who utilize assistive technology devices and assistive technology services as such students make the transition to postsecondary education, vocational training, competitive employment (including supported employment), and continuing education or adult services.

(c) Coordination of noneducational agency applicant with State educational agency

For purposes of paragraphs (1) and (2) of subsection (b) of this section, if an applicant is not an educational agency, such applicant shall coordinate its activities with the State educational agency.

(d) Applications for assistance; contents

Applications for assistance under subsection (a) of this section other than for the purpose of conducting studies or evaluations shall—

(1) describe the procedures to be used for disseminating relevant findings and data to regional resource centers, clearinghouses, and other interested persons, agencies, or organizations,

(2) describe the procedures that will be used for coordinating services among agencies for which youth with disabilities are or will be eligible, and

(3) provide for the direct participation of students with disabilities and the parents of students with disabilities in the planning, development, and implementation of such projects.

(e) Five-year grants to develop systems to provide transition services

(1) The Secretary shall make one-time, 5-year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth with disabilities from age 14 through the age they exit school.

(2) In the case of a State whose vocational rehabilitation agency does not participate regarding a joint application described in paragraph (1), the Secretary may make a grant under such paragraph to the State if a joint application for the grant is submitted by the State educational

agency and one other State agency that provides transition services to individuals who are leaving programs under this chapter.

(3) States that receive grants shall use grant funds to:

(A) Increase the availability, access, and quality of transition assistance through the development and improvement of policies, procedures, systems, and other mechanisms for youth with disabilities and their families as such youth prepare for and enter adult life.

(B) Improve the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from “student” to “adult”.

(C) Improve working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA) [29 U.S.C. 1501 et seq.], and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities.

(D) Create an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

(4)(A) In order to receive funding under this subsection, a State vocational rehabilitation agency and State educational agency shall describe in their application how they will use the first year, if necessary, to plan how to implement transition services, the second through fourth years to develop and implement transition services, and the fifth year to evaluate transition services. The application shall describe how the grant funds will be used during the planning period and phased out during the evaluation period to ensure the continuation of transition services. Such applications shall also include—

(i) a description of the current availability, access, and quality of transition services for eligible youth and a description of how, over 5 years, the State will improve and expand the availability, access, and quality of transition services for youth with disabilities and their families as such youth prepare for and enter adult life;

(ii) a description of how the State will improve and increase the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from “student” to “adult”;

(iii) a description of how the State will improve and increase working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the JTPA, and families of students with

disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities; and

(iv) a description of how the State will use grant funds as an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

(B) The Secretary shall give preference to those applications that, in addition to clearly addressing the requirements under subparagraph (A), describe how the State will—

(i) target resources to school settings, such as providing access to rehabilitation counselors for students with disabilities who are in school settings;

(ii) target a substantial amount of grant funds, received under this subsection, to case management, program evaluation and documentation of, and dissemination of information about, transition services;

(iii) provide incentives for interagency and private sector resource pooling and otherwise investing in transition services, especially in the form of cooperative agreements, particularly with PICS authorized by the JTPA and local branches of State employment agencies;

(iv) provide for early, ongoing information and training for those involved with or who could be involved with transition services—professionals, parents, youth with disabilities, including self-advocacy training for such youth, and advocates for such youth as well as PICS authorized by the JTPA and local branches of State employment agencies;

(v) provide for the early and direct involvement of all relevant parties, including PICS authorized by the JTPA and local branches of State employment agencies, in operating and planning improvements in transition services, and the early and direct involvement of all relevant parties in planning and implementing transition services for individual youth;

(vi) provide access to training for eligible youth that matches labor market needs in their communities;

(vii) integrate transition services with relevant opportunities in communities, including those sponsored by PICS authorized by the JTPA and local employment agencies;

(viii) use a transition services evaluation plan that is outcome oriented and that focuses on individual youth-focused benefits; and

(ix) ensure that, when appropriate and no later than age 22, eligible youth who participate in transition services under this program would be served as appropriate in the State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973.

(f) Development or demonstration of new or improved methods, approaches, or techniques; demonstration models of assistive technology devices and services; evaluation of transition services

(1) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, such organizations or institutions as are determined by the Secretary to be

appropriate for the development or demonstration of new or improvements in existing methods, approaches, or techniques which will contribute to the adjustment and education of children and youth with disabilities and the dissemination of materials and information concerning practices found effective in working with such children and youth. Such organizations and institutions shall disseminate such materials and information as prescribed under section 1409(g) of this title.

(2) The Secretary shall fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary school students as they make the transition to vocational rehabilitation, employment, postsecondary education, or adult services. Such demonstration models shall include, as appropriate—

(A) cooperative agreements with the Rehabilitation Services Administration and/or State vocational rehabilitation agencies that ensure continuity of funding for assistive technology devices and services to such students; and

(B) methods for dissemination of exemplary practices that can be adapted or adopted by transitional programs for secondary school students with disabilities.

(3)(A) The Secretary shall award one, five-year cooperative agreement through a separate competition to an institution of higher education, or nonprofit public or private organization. The purpose of this agreement will be to evaluate and document the approaches and outcomes of the projects funded under subsection (e) of this section. The results of this agreement shall be disseminated through the appropriate clearinghouses, networks, and through direct communication with Federal, State, and local agencies.

(B) The evaluation carried out pursuant to subparagraph (A) of transition services under subsection (e) of this section shall include an evaluation of—

(i) the outcomes of the transition services provided under such subsection, including the effect of the services regarding postsecondary education, job training, employment, and other appropriate matters;

(ii) the impact of including in the individualized education program a statement of needed transition services (as required under section 1401(a)(20)(D) of this title);

(iii) the extent to which, in the provision of the transition services, agencies are cooperating effectively, including evaluation of the extent of coordination of the staff of the agencies, of procedures regarding confidentiality, assessment of needs, and referrals, and coordination regarding data bases and training;

(iv) the extent to which obstacles exist regarding cooperation and coordination among agencies in the provision of the transition services, and the extent to which Federal law creates disincentives to such cooperation and coordination; and

(v) the extent to which the transition services have been provided in a cost-effective manner.

(C) The evaluation carried out pursuant to subparagraph (A) shall include recommendations on the manner in which the program under subsection (e) of this section can be improved.

(D) In the annual report required under section 1418(g) of this title, the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A).

(g) Coordination of educational programs with vocational rehabilitation projects and vocational education projects

The Secretary, as appropriate, shall coordinate programs described under subsection (a) of this section with projects developed under section 777a of title 29, the Job Training Partnership Act (JTPA) [29 U.S.C. 1501 et seq.], and the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.].

(Pub. L. 91–230, title VI, § 626, formerly § 625, Apr. 13, 1970, 84 Stat. 183, renumbered § 626, Pub. L. 93–380, title VI, § 616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, § 306, Oct. 8, 1986, 100 Stat. 1163; Pub. L. 100–630, title I, § 103(g), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title III, § 306, title IX, § 901(b)(119)–(127), Oct. 30, 1990, 104 Stat. 1124, 1147, 1148; Pub. L. 102–119, § 25(a)(11), (b), Oct. 7, 1991, 105 Stat. 606, 607.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsections (a), (e)(3)(C), and (g), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973, referred to in subsec. (e)(4)(B)(ix), is a program authorized under section 110 and/or part C (§631 et seq.) of title VI of Pub. L. 93–112, which are classified generally to section 730 of Title 29 and part C (§795j et seq.) of subchapter VI of chapter 16 of Title 29, respectively.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (g), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476, § 901(b). See 1990 Amendment note below.

Pub. L. 102–119, § 25(a)(11), struck out “children and” after “services for” in section catchline.

1990—Pub. L. 101–476, § 901(b), was amended in its directory language by Pub. L. 102–119, § 25(b), requiring no change in text.

Pub. L. 101–476, § 901(b)(119), in section catchline, substituted provisions relating to children and youth with disabilities for provisions relating to handicapped children and youth.

Subsec. (a)(1). Pub. L. 101–476, §§ 306(a), 901(b)(120), substituted “youth with disabilities” for “handicapped youth” and inserted “independent and community living,” after “continuing education.”

Subsec. (a)(3). Pub. L. 101–476, § 901(b)(121), substituted “students with disabilities” for “handicapped students”.

Subsec. (b)(1). Pub. L. 101–476, § 901(b)(122), substituted “youth with disabilities” for “handicapped youth”.

Subsec. (b)(2). Pub. L. 101–476, §§ 306(b)(1), 901(b)(122), inserted “independent living,” after “training,” and substituted “youth with disabilities” for “handicapped youth”.

Subsec. (b)(3). Pub. L. 101–476, § 901(b)(122), (123), substituted “disabling” and “youth with disabilities” for “handicapping” and “handicapped youth”, respectively.

Subsec. (b)(4), (6), (7). Pub. L. 101–476, § 901(b)(122), substituted “youth with disabilities” for “handicapped youth”.

Subsec. (b)(8). Pub. L. 101–476, §§ 306(b)(2), 901(b)(123), substituted “disabling conditions and reasons why some youth with disabilities remain to complete school programs while others drop out,” for “handicapping conditions and reasons why handicapped youth drop out of school, and”.

Subsec. (b)(9). Pub. L. 101–476, §§ 306(b)(3), 901(b)(124), substituted “developing curriculum and instructional techniques in special education and related services that will improve the acquisition of skills by students with disabilities necessary” for “developing special education curriculum and instructional techniques that will improve handicapped students’ acquisition of the skills necessary”.

Subsec. (b)(10). Pub. L. 101–476, § 306(b)(4), substituted “specially designed or adapted physical education and therapeutic recreation programs to facilitate the full participation of youths with disabilities in community programs” for “specially designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation”.

Subsec. (b)(11). Pub. L. 101–476, § 306(b)(5), added par. (11).

Subsec. (d)(2). Pub. L. 101–476, § 901(b)(125), substituted “youth with disabilities” for “handicapped youth”.

Subsec. (d)(3). Pub. L. 101–476, §§ 306(c), 901(b)(126), substituted “students with disabilities” for “handicapped students”, in two places and struck out “to the extent appropriate,” before “provide”.

Subsec. (e). Pub. L. 101–476, § 306(d), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101–476, § 306(d), (e), redesignated subsec. (e) as (f), designated existing provisions as par. (1), inserted provisions relating to dissemination of materials and information as prescribed under section 1409(g) of this title, and added pars. (2) and (3). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 101–476, § 901(b)(127), which directed the substitution of “children and youth with disabilities” for “handicapped children and youth” in subsec. (e) was executed to subsec. (f)(1) to reflect the probable intent of Congress and the redesignation of subsec. (e) as (f)(1) by Pub. L. 101–476, § 306(d), (e)(1)(A). See above.

Subsec. (g). Pub. L. 101–476, § 306(d), (f), redesignated subsec. (f) as (g) and inserted provisions referring to Job Training Partnership Act and Carl D. Perkins Vocational and Applied Technology Education Act.

1988—Subsec. (a). Pub. L. 100–630, § 103(g)(1), struck out “(Public Law 97–300)” after “Training Partnership Act” in first sentence, and substituted “throughout the Nation” for “through the Nation” in last sentence.

Subsec. (b)(6). Pub. L. 100–630, § 103(g)(2), substituted “among” for “between” and inserted “and” before “public”.

Subsec. (b)(10). Pub. L. 100–630, § 103(g)(3), substituted “specially” for “specifically”.

Subsec. (c). Pub. L. 100–630, § 103(g)(4), inserted “its activities” after “coordinate”.

1986—Pub. L. 99–457, in amending section generally, made the following changes: in subsec. (a), in introductory provision, substituted “may make grants” for “is authorized to make grants”, in par. (1), substituted “coordinate special education” for “coordinate education, training,” inserted “currently in school or who recently left school”, substituted “to assist them in

the transition” for “to assist in the transitional process”, inserted “(including supported employment)”, and added par. (3) and closing sentence; in subsec. (b), in introductory provision, substituted “subsection (a) of this section” for “this section”, in par. (1), inserted “vocational rehabilitation,” and “(including supported employment)”, in par. (2), inserted reference to individualized education programs, and added pars. (8) to (10); in subsec. (c), substituted “paragraphs (1) and (2) of subsection (b) of this section” for “subsections (b)(1) and (b)(2) of this section”; in subsec. (d), designated existing provisions as par. (3), inserted introductory provision and pars. (1) and (2), and in par. (3), struck out “Projects funded under this section shall” before “to the extent”; added subsec. (e); and redesignated former subsec. (e) as (f) and substituted “subsection (a) of this section” for “this section”.

1983—Pub. L. 98-199, §10, amended section generally, substituting provisions respecting secondary education and transitional services for handicapped youth for provisions requiring evaluation of programs assisted under this subchapter. See section 1426 of this title.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1427, 2328 of this title; title 29 section 777a; title 42 section 6062.

§ 1426. Programs for children and youth with serious emotional disturbance

(a) Grants, contracts, and cooperative agreements to establish projects

The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies to establish projects for the purpose of improving special education and related services to children and youth with serious emotional disturbance. Such projects may include—

(1) studies regarding the present state of special education and related services to such children and youth and their families, including information and data to enable assessments of the status of such services over time;

(2) developing methodologies and curricula designed to improve special education and related services for these children and youth;

(3) developing and demonstrating strategies and approaches to reduce the use of out-of-community residential programs and the increased use of school district-based programs (which may include day treatment programs, after-school programs, and summer programs);

(4) developing the knowledge, skills, and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies; or

(5) developing and demonstrating innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbances that require the provision of special education and related services.

(b) Grants to provide services

(1) The Secretary is authorized to make grants, on a competitive basis, to local educational agencies in collaboration with mental health entities to provide services for children and youth with serious emotional disturbance. Such demonstration projects shall—

(A) increase the availability, access, and quality of community services for such children and youth and their families;

(B) improve working relationships among education, school, and community mental health and other relevant personnel, families of such children and youth, and their advocates;

(C) target resources to school settings, such as providing access to school and/or community mental health professionals and other community resources for students with serious emotional disturbance who are in community school settings; and

(D) take into account the needs of minority children and youth in all phases of project activity.

(2) Funds received under this subsection may also be used to facilitate interagency and private sector resource pooling to improve services for such children and youth and to provide information and training for those involved with, or who could be involved with, such children and youth.

(c) Requirements of projects assisted

Each project assisted under this section shall—

(1) apply existing research outcomes from multi-disciplinary fields;

(2) use a grant evaluation plan that is outcome-oriented and that focuses on the benefits to individual children and youth;

(3) report on the effectiveness of such project; and

(4) disseminate the findings of such project, where appropriate, in accordance with section 1409(g) of this title.

(Pub. L. 91-230, title VI, §627, formerly §626, Apr. 13, 1970, 84 Stat. 184, renumbered §627 and amended Pub. L. 93-380, title VI, §§616, 617, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95-49, §2, June 17, 1977, 91 Stat. 230; Pub. L. 98-199, §10, Dec. 2, 1983, 97 Stat. 1368; Pub. L. 101-476, title III, §307, Oct. 30, 1990, 104 Stat. 1127.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 91-230, title VI, §626, formerly §625, Apr. 13, 1970, 84 Stat. 183; renumbered §626, Pub. L. 93-380, title VI, §616, Aug. 21, 1974, 88 Stat. 584, which is classified to section 1425 of this title, prior to general amendment of this subchapter by Pub. L. 98-199.

AMENDMENTS

1990—Pub. L. 101-476 amended section generally. Prior to amendment, section read as follows: “The Secretary shall conduct, either directly or by contract, a thor-

ough and continuing evaluation of the effectiveness of each program assisted under this subchapter. Results of the evaluations shall be analyzed and submitted to the appropriate committees of each House of Congress together with the annual report under section 1418 of this title.”

1983—Pub. L. 98-199 amended section generally, substituting provisions respecting program evaluations and submittance of results of analysis to Congressional committees for provisions authorizing appropriations. See section 1427 of this title.

1977—Pub. L. 95-49 authorized appropriations of \$19,000,000 for fiscal year 1978, \$19,000,000 for fiscal year 1979, \$21,000,000 for fiscal year 1980, \$24,000,000 for fiscal year 1981, and \$25,000,000 for fiscal year 1982 to carry out the provisions of section 1421 of this title, authorized appropriations of \$22,000,000 for fiscal year 1978, \$24,000,000 for fiscal year 1979, \$26,000,000 for fiscal year 1980, \$29,000,000 for fiscal year 1981, and \$32,000,000 for fiscal year 1982 to carry out the provisions of section 1422 of this title, authorized appropriations of \$25,000,000 for fiscal year 1978, \$25,000,000 for fiscal year 1979, \$25,000,000 for fiscal year 1980, \$20,000,000 for fiscal year 1981, and \$20,000,000 for fiscal year 1982 to carry out the provisions of section 1423 of this title, and authorized appropriations of \$10,000,000 for fiscal year 1978, \$12,000,000 for fiscal year 1979, \$14,000,000 for fiscal year 1980, \$16,000,000 for fiscal year 1981, and \$16,000,000 for fiscal year 1982 to carry out the provisions of section 1424a of this title.

1974—Pub. L. 93-380, §617, substituted appropriations authorization for carrying out: section 1421 of this title of \$12,500,000; \$18,000,000; and \$19,000,000 for fiscal years ending June 30, 1975, 1976, and 1977; section 1422 of this title of \$15,000,000; \$20,000,000; and \$20,000,000 for fiscal years ending June 30, 1975, 1976, 1977; section 1423 of this title of \$25,500,000; \$36,000,000; and \$38,000,000 for fiscal years ending June 30, 1975, 1976, and 1977; and section 1424a of this title of \$1,000,000 for fiscal year ending June 30, 1975, and necessary sums for fiscal years ending June 30, 1976, and 1977 for prior authorization of \$36,500,000; \$51,500,000; and \$66,500,000 for fiscal years ending June 30, 1971, 1972, and 1973, for carrying out this subchapter.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 7 of Pub. L. 95-49 provided that: “The amendments made by sections 2, 3, 5, and 6 [amending this section and sections 1436, 1444, and 1454 of this title] shall take effect on October 1, 1977.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date note under section 1221-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1427. Authorization of appropriations

(a) There are authorized to be appropriated to carry out section 1421 of this title \$8,525,000 for fiscal year 1991, \$9,300,000 for fiscal year 1992, \$10,140,000 for fiscal year 1993, and \$11,052,000 for fiscal year 1994.

(b) There are authorized to be appropriated to carry out section 1422 of this title \$21,900,000 for fiscal year 1991, \$24,100,000 for fiscal year 1992, \$26,500,000 for fiscal year 1993, and \$29,200,000 for fiscal year 1994.

(c) There are authorized to be appropriated to carry out section 1423 of this title \$31,400,000 for fiscal year 1991, \$34,235,000 for fiscal year 1992, \$37,325,000 for fiscal year 1993, and \$40,705,000 for fiscal year 1994.

(d) There are authorized to be appropriated to carry out section 1424 of this title \$9,500,000 for fiscal year 1991, \$10,500,000 for fiscal year 1992, \$11,600,000 for fiscal year 1993, and \$12,700,000 for fiscal year 1994.

(e) There are authorized to be appropriated to carry out section 1424a of this title \$9,470,000 for fiscal year 1991, \$10,230,000 for fiscal year 1992, \$11,050,000 for fiscal year 1993, and \$11,930,000 for fiscal year 1994.

(f) There are authorized to be appropriated to carry out section 1425 of this title (except subsection (e)) \$9,800,000 for fiscal year 1991, \$10,800,000 for fiscal year 1992, \$11,900,000 for fiscal year 1993, and \$13,050,000 for fiscal year 1994.

(g) There are authorized to be appropriated to carry out section 1425(e) of this title \$27,500,000 for fiscal year 1991, \$30,250,000 for fiscal year 1992, \$33,275,000 for fiscal year 1993, and \$36,602,000 for fiscal year 1994.

(h) There are authorized to be appropriated to carry out section 1426 of this title \$6,500,000 for fiscal year 1991, \$8,000,000 for fiscal year 1992, \$9,500,000 for fiscal year 1993, and \$11,500,000 for fiscal year 1994.

(Pub. L. 91-230, title VI, §628, as added Pub. L. 98-199, §10, Dec. 2, 1983, 97 Stat. 1368; amended Pub. L. 99-457, title III, §307, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 101-476, title III, §308, Oct. 30, 1990, 104 Stat. 1128.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 91-230, title VI, §627, formerly §626, Apr. 13, 1970, 84 Stat. 184; renumbered §627 and amended Pub. L. 93-380, title VI, §§616, 617, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95-49, §2, June 17, 1977, 91 Stat. 230, which is classified to section 1426 of this title, prior to general amendment of this subchapter by Pub. L. 98-199.

AMENDMENTS

1990—Pub. L. 101-476 amended section generally, substituting provisions authorizing appropriations for sections 1421 to 1426 of this title for fiscal years 1991, 1992, 1993, and 1994 for provisions authorizing appropriations for sections 1421 to 1425 of this title for fiscal years 1987, 1988, and 1989.

1986—Pub. L. 99-457 amended section generally, substituting provisions authorizing appropriations for fiscal years 1987, 1988, and 1989 for provisions authorizing appropriations for fiscal years 1984, 1985, and 1986.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE

Section effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as an Effective Date of 1983 Amendment note under section 1401 of this title.

SUBCHAPTER IV—TRAINING PERSONNEL
FOR THE EDUCATION OF INDIVIDUALS
WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1408, 1409, 1418, 1421, 1424a, 1491n of this title; title 42 section 6024.

§ 1431. Grants for personnel training

(a) Careers in special education; personnel training standards; costs of courses, fellowships, and traineeships; contract authority for areas of personnel shortages

(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6061 et seq.]) and other appropriate non-profit agencies to assist them in training personnel for careers in special education, related services, and early intervention, including—

(A) special education teaching, including speech-language pathology and audiology, and adapted physical education and instructional and assistive technology services,

(B) related services to children and youth with disabilities in educational settings, and other settings,

(C) special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

(D) special education leadership, including supervision and administration (at the advanced graduate, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels),

(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for children with disabilities, and

(F) training in the use, applications, and benefits of assistive technology devices and assistive technology services (as defined in paragraphs (2) and (3) of section 2202 of title 29).

(2)(A) The Secretary shall base the award of grants under paragraph (1) on information relating to the present and projected need for special education, related services, early intervention, and other personnel to be trained based on identified State, regional, or national shortages, including the need for personnel in the provision of special education to children of limited English proficiency, and the capacity of the institution or agency to train qualified personnel, and other information considered appropriate by the Secretary.

(B) The Secretary shall ensure that grants are only made under paragraph (1) to applicant agencies and institutions that meet State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or institution to meet such standards, and that include in their applications a detailed description of strategies

that will be utilized to recruit and train members of minority groups and persons with disabilities.

(3) Grants under paragraph (1) may be used by institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary. Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.

(4) The Secretary in carrying out paragraph (1) may reserve a sum not to exceed 5 percent of the amount available for paragraph (1) in each fiscal year for contracts to prepare personnel in areas where shortages exist when a response to that need has not been adequately addressed by the grant process.

(5) In making grants under subsection (a)(1) of this section, the Secretary may determine that a portion of training supported through such grants shall be conducted on an interdisciplinary basis, and shall be designed to assist special educators in properly coordinating service provision with related services personnel. To the extent feasible, training programs funded under subsection (a)(1)(B) and (a)(1)(E) of this section shall require practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

(6) Nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting or participating in training activities conducted under this subsection on a preservice or inservice basis.

(7) The Secretary, in carrying out paragraph (1), shall make grants to Historically Black Colleges and Universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.

(8)(A) In making grants under paragraph (1), the Secretary may make grants through a separate competition to institutions of higher education, in partnership with local educational agencies and center schools for students who are deaf, to carry out not less than 4 regional model demonstration training programs on deafness and secondary disabilities.

(B) Such programs shall provide preservice and inservice training to teachers and school administrators, and leadership personnel, in the education of students who are deaf and to related services personnel.

(9) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.

(b) Grants for educational interpreter training programs for personnel educating deaf or deaf-blind students; assurance required; training of regular education teachers

(1) The Secretary may make grants to institutions of higher education, and other appropriate nonprofit agencies or organizations for the establishment or continuation of educational interpreter training programs to train personnel to effectively meet the various communication needs of elementary and secondary students who are deaf or deaf-blind. To the extent feasible, grants shall be geographically dispersed throughout the Nation in urban and rural areas.

(2) The Secretary may make a grant under paragraph (1) only if the applicant for the grant provides an assurance that all interpreters receiving training under the grant will be provided training designed to develop skills necessary for facilitating effective communication for students who are deaf or deaf-blind.

(3) In making grants under paragraph (1), the Secretary may provide for the training or retraining (including short-term and in-service training) of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, and other personnel who work with such individuals, on the role of educational interpreters.

(c) Special projects for preservice training, regular educators, and inservice training of special education personnel

The Secretary may make grants to institutions of higher education, State agencies, and other appropriate nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators.

(d) Career advancement and training for workers at agencies that provide services to children and youth with disabilities

(1) The Secretary shall fund up to 5 grants to States or entities to support the formation of consortia or partnerships of public and private entities for the purpose of providing opportunities for career advancement and/or competency-based training, including but not limited to, certificate or degree granting programs in special

education, related services, and early intervention for current workers at public and private agencies that provide services to infants, toddlers, children, and youth with disabilities. Recipients shall meet the requirements of section 1409(g) of this title for the dissemination of information. The purposes for which such a grant may be expended include, but are not limited to, the following:

(A) Establishing a program with colleges and universities to develop creative new programs and coursework options and/or to expand existing programs in the field of special education, related services, or early intervention. Funds may be used to provide release time for faculty and staff for curriculum development, instructional costs, and modest start-up and other program development costs.

(B) Establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, county, and voluntary sector workers who have demonstrated a commitment to working in the above fields and who are enrolled in higher education institution programs relating to these fields.

(C) Supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in the above fields.

(D) Identifying existing public and private agency and labor union personnel policies and benefit programs that may facilitate the ability of workers to take advantage of higher education opportunities such as leave time, tuition reimbursement, etc.

(2) To the extent feasible, projects authorized under paragraph (1) shall be geographically dispersed throughout the Nation in urban and rural areas.

(3) The Secretary shall award, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), a cooperative agreement through a separate competition to an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of workers to serve children and youth with disabilities through the use of consortia or partnerships established for the purpose of retaining the existing workforce and providing opportunities for career enhancement.

(4) The Secretary may conduct an evaluation of projects funded under this subsection.

(5) During the period in which an entity is receiving financial assistance under paragraph (1) or (3), the entity may not receive financial assistance under the other paragraph.

(e) Parent training and information programs

(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of infants, toddlers, children, and youth with disabilities and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of chil-

dren with disabilities. Such grants shall be designed to meet the unique training and information needs of parents of infants, toddlers, children, and youth with disabilities living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

(2) In order to receive a grant under paragraph (1) a private nonprofit organization shall—

(A) be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities, or, if the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program under paragraph (1), and parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services;

(B) serve the parents of infants, toddlers, children, and youth with the full range of disabling conditions under such grant program, and

(C) demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1), and, for purposes of paragraph (1), network with clearinghouses, including those established under section 1433 of this title and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children.

Nothing in subparagraph (A) shall be construed to authorize or permit the denial to any person of the due process of law required by the United States Constitution.

(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under paragraph (1) shall meet at least once in each calendar quarter to review the parent training and information activities for which the grant is made, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under paragraph (1) for a fiscal year, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private

nonprofit organization during the preceding fiscal year.

(4) The Secretary shall ensure that grants under paragraph (1) will—

(A) be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas,

(B) be targeted to parents of children with disabilities in both urban and rural areas or on a State or regional basis,

(C) serve parents of minority children with disabilities (including parents served pursuant to paragraph (10)) representative to the proportion of the minority population in the areas being served by requiring that applicants for the grants identify with specificity the special efforts that will be undertaken to involve such parents, including efforts to work with community-based and cultural organizations and the specification of supplementary aids, services, and supports that will be made available, and by specifying budgetary items earmarked to accomplish this subparagraph, and

(D) be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.

(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

(A) better understand the nature and needs of the disabling conditions of children,

(B) provide followup support for educational programs of children with disabilities,

(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals,

(D) participate in educational decision-making processes, including the development of the individualized education program for a child with a disability,

(E) obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families, and

(F) understand the provisions for the education of infants, toddlers, children, and youth with disabilities under this chapter.

(6) Parent training and information programs may, at a grant recipient's discretion, include State or local educational personnel where such participation will further an objective of the program assisted by the grant.

(7) Each private nonprofit organization operating a program receiving a grant under paragraph (1) shall consult and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that serve or assist infants, toddlers, children, and youth with disabilities and their families and are located in the jurisdictions served by the program.

(8) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.

(9) After the establishment in each State of a parent training and information center, the Secretary shall provide for the establishment of 3 experimental centers to serve large numbers of parents of children with disabilities located in high density areas that do not have such centers and 2 such centers to serve large numbers of parents of children with disabilities located in rural areas.

(10)(A) In the case of a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the organization, in expending the amounts described in subparagraph (B), shall give priority to providing services under this subsection to parents of children with disabilities aged 0–5.

(B) With respect to a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the amounts described in this subparagraph are any amounts provided in the grant in excess of the amount of any grant under such paragraph provided to the organization for fiscal year 1992.

(11) Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data concerning programs and centers assisted under this subsection on—

(A) the number of parents provided information and training by disability category of their children,

(B) the types and modes of information or training provided,

(C) strategies used to reach and serve parents of minority infants, toddlers, children, and youth with disabilities,

(D) the number of parents served as a result of activities described under subparagraph (C),

(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)(C)¹ of this section,

(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels, and

(G) the number of parents served under this subsection who are parents of children with disabilities aged 0–5.

The Secretary shall include a summary of this information in the annual report to Congress as required in section 1418(g) of this title.

(Pub. L. 91–230, title VI, § 631, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1369; Pub. L. 99–457, title III, § 308, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 100–630, title I, § 104(b), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title IV, § 401, title IX, § 901(b)(129)–(142), Oct. 30, 1990, 104 Stat. 1129, 1148; Pub. L. 102–119, §§ 9(a), (b), 25(a)(12), (b), Oct. 7, 1991, 105 Stat. 593, 594, 606, 607; Pub. L. 102–421, title II, § 202, Oct. 16, 1992, 106 Stat. 2165; Pub. L. 102–569, title IX, § 912(a), Oct. 29, 1992, 106 Stat. 4486; Pub. L. 103–73, title III, § 302, Aug. 11, 1993, 107 Stat. 736; Pub. L. 103–218, title IV, § 401, Mar. 9, 1994, 108 Stat. 95.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (a)(1), is title I of

Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, and amended. Part D of the Developmental Disabilities Assistance and Bill of Rights Act is classified generally to subchapter IV (§ 6061 et seq.) of chapter 75 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

AMENDMENTS

1994—Subsec. (a)(1)(F). Pub. L. 103–218 added subpar. (F).

1993—Subsec. (a)(8), (9). Pub. L. 103–73 redesignated par. (8), relating to training or retraining of regular education teachers, as (9).

1992—Subsec. (a)(8). Pub. L. 102–569 added par. (8) relating to training or retraining of regular education teachers.

Pub. L. 102–421, § 202(a), added par. (8) relating to regional model demonstration training programs on deafness and secondary disabilities.

Subsecs. (b) to (e). Pub. L. 102–421, § 202(b), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

1991—Pub. L. 102–119, § 25(b), amended directory language of Pub. L. 101–476, § 901(b). See 1990 Amendment note below.

Subsec. (a)(1)(E). Pub. L. 102–119, § 25(a)(12)(A), substituted “children with disabilities” for “handicapped children”.

Subsecs. (c), (d). Pub. L. 102–119, § 9(a), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d)(4)(C). Pub. L. 102–119, § 9(b)(2), inserted “(including parents served pursuant to paragraph (10))” after “disabilities” and inserted before comma at end “by requiring that applicants for the grants identify with specificity the special efforts that will be undertaken to involve such parents, including efforts to work with community-based and cultural organizations and the specification of supplementary aids, services, and supports that will be made available, and by specifying budgetary items earmarked to accomplish this subparagraph”.

Subsec. (d)(5)(D). Pub. L. 102–119, § 25(a)(12)(B), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “participate in educational decisionmaking processes including the development of a the individualized educational program of a child with a disability.”

Subsec. (d)(10), (11). Pub. L. 102–119, § 9(b)(1), added par. (10) and redesignated former par. (10) as (11).

Subsec. (d)(11)(G). Pub. L. 102–119, § 9(b)(3), added subpar. (G).

1990—Pub. L. 101–476, § 901(b), was amended in its directory language by Pub. L. 102–119, § 25(b), requiring no change in text.

Subsec. (a)(1). Pub. L. 101–476, § 401(a)(1), in introductory provisions inserted “, related services,” after “special education”.

Subsec. (a)(1)(A). Pub. L. 101–476, § 401(a)(2), substituted “adapted physical education and instructional and assistive technology services” for “adaptive physical education”.

Subsec. (a)(1)(B). Pub. L. 101–476, § 901(b)(129), which directed the substitution of “children and youth with disabilities” for “handicapped children and youth”, could not be executed because “handicapped children and youth” did not appear following the general amendment by Pub. L. 101–476, § 401(a)(3). See below.

Pub. L. 101–476, § 401(a)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “related services to handicapped children and youth in educational settings.”

Subsec. (a)(1)(C), (D). Pub. L. 101–476, § 401(a)(3), amended subpars. (C) and (D) generally. Prior to amendment, subpars. (C) and (D) read as follows:

“(C) special education supervision and administration,

“(D) special education research, and”.

Subsec. (a)(2)(A). Pub. L. 101–476, § 401(b)(1), substituted “for special education, related services, early

¹ So in original. Probably should be subsection “(e)(2)(C)”.

intervention, and other personnel” for “for the personnel” and inserted “, including the need for personnel in the provision of special education to children of limited English proficiency” after “shortages”.

Subsec. (a)(2)(B). Pub. L. 101-476, §401(b)(2), inserted before period at end “, and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities”.

Subsec. (a)(3). Pub. L. 101-476, §401(b)(3), inserted at end “Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.”

Subsec. (a)(5) to (7). Pub. L. 101-476, §401(c), added pars. (5) to (7).

Subsec. (b). Pub. L. 101-476, §901(b)(130), which directed the substitution of “children with disabilities” for “handicapped children”, could not be executed because “handicapped children” did not appear following amendment by Pub. L. 101-476, §401(d). See below.

Pub. L. 101-476, §401(d), substituted “nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators” for “nonprofit agencies to conduct special projects to develop and demonstrate new approaches (including the application of new technology) for the preservice training purposes set forth in subsection (a) of this section, for regular educators, for the training of teachers to work in community and school settings with handicapped secondary school students, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personnel who serve handicapped children and personnel providing early intervention services”.

Subsec. (c)(1). Pub. L. 101-476, §§401(h)(1), 901(b)(131), substituted “parents of infants, toddlers, children, and youth with disabilities” for “parents of handicapped children” in two places and “children with disabilities” for “handicapped children”.

Subsec. (c)(2). Pub. L. 101-476, §401(e)(2), inserted sentence at end prohibiting construction of subpar. (A) as authorizing or permitting denial of due process of law to any person.

Subsec. (c)(2)(A). Pub. L. 101-476, §901(b)(132)–(134), which directed the substitution of “children with disabilities” for “handicapped children”, “children and youth with disabilities” for “handicapped children and youth”, and “disabling” for “handicapping”, could not be executed because those terms did not appear following the general amendment by Pub. L. 101-476, §401(e)(1)(A). See below.

Pub. L. 101-476, §401(e)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “be governed by a board of directors of which a majority of the members are parents of handicapped children and which includes members who are professionals in the field of special education and related

services who serve handicapped children and youth, or if the nonprofit private organization does not have such a board, such organization shall have a membership which represents the interests of individuals with handicapping conditions, and shall establish a special governing committee of which a majority of the members are parents of handicapped children and which includes members who are professionals in the fields of special education and related services, to operate the training and information program under paragraph (1).”.

Subsec. (c)(2)(B). Pub. L. 101-476, §§401(e)(1)(B)(ii), 901(b)(135), amended subpar. (B) identically, substituting “disabling” for “handicapping”.

Pub. L. 101-476, §401(e)(1)(B)(i), substituted “infants, toddlers, children, and youth” for “children”.

Subsec. (c)(2)(C). Pub. L. 101-476, §401(e)(1)(C), inserted before period at end “, and, for purposes of paragraph (1), network with clearinghouses, including those established under section 1433 of this title and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children”.

Subsec. (c)(4)(B). Pub. L. 101-476, §901(b)(136), substituted “children with disabilities” for “handicapped children”.

Subsec. (c)(4)(C), (D). Pub. L. 101-476, §401(f), added subpars. (C) and (D).

Subsec. (c)(5)(A). Pub. L. 101-476, §901(b)(137), substituted “disabling” for “handicapping”.

Subsec. (c)(5)(B). Pub. L. 101-476, §901(b)(138), substituted “educational programs of children with disabilities” for “handicapped children’s educational programs”.

Subsec. (c)(5)(D). Pub. L. 101-476, §901(b)(139), substituted “the individualized educational program of a child with a disability” for “handicapped child’s individualized educational program”.

Subsec. (c)(5)(E). Pub. L. 101-476, §901(b)(140), which directed the substitution of “children with disabilities” for “handicapped children”, could not be executed because “handicapped children” did not appear following the general amendment by Pub. L. 101-476, §401(h)(2)(A). See below.

Pub. L. 101-476, §401(h)(2)(A), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “obtain information about the programs, services, and resources available to handicapped children and the degree to which the programs, services, and resources are appropriate, and”.

Subsec. (c)(5)(F). Pub. L. 101-476, §901(b)(141), which directed the substitution of “children with disabilities” for “handicapped children”, could not be executed because “handicapped children” did not appear following amendment by Pub. L. 101-476, §401(h)(2)(B). See below.

Pub. L. 101-476, §401(h)(2)(B), substituted “infants, toddlers, children, and youth with disabilities under this chapter” for “handicapped children as specified under subchapter II of this chapter”.

Subsec. (c)(7). Pub. L. 101-476, §901(b)(142), which directed the substitution of “children and youth with disabilities” for “handicapped children and youth”, could not be executed because “handicapped children and youth” did not appear following amendment by Pub. L. 101-476, §401(h)(3)(B). See below.

Pub. L. 101-476, §401(h)(3), substituted “and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that” for “with appropriate agencies which” and “infants, toddlers, children, and youth with disabilities and their families” for “handicapped children and youth”.

Subsec. (c)(9), (10). Pub. L. 101-476, §401(g), added pars. (9) and (10).

1988—Subsec. (a)(1). Pub. L. 100-630, §104(b)(1), substituted “(including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill

of Rights Act)” for “(including the university-affiliated facilities program under the Rehabilitation Act of 1973 and satellite network of the developmental disabilities program)”.

Subsec. (a)(2)(A). Pub. L. 100-630, §104(b)(2), substituted “The Secretary shall base the award of grants under paragraph (1)” for “In making grants under paragraph (1), the Secretary shall base the determination of such grants”.

Subsec. (b). Pub. L. 100-630, §104(b)(3), inserted “, State agencies,” after “higher education”.

Subsec. (c)(2)(A). Pub. L. 100-630, §104(b)(4), substituted “of which a majority” for “on which a majority” in two places, and directed the substitution of a semicolon for “the comma” which amendment was not executed because there was no indication which of the five commas was intended to be stricken.

Subsec. (c)(5)(D). Pub. L. 100-630, §104(b)(5), substituted “education program” for “educational program”.

1986—Pub. L. 99-457, in amending section generally, made the following changes: in subsec. (a), in opening provisions, substituted “may make grants” for “is authorized to make grants” and inserted “and early intervention,” in par. (A), substituted “speech-language pathology and audiology, and adaptive physical education” for “speech, language, and hearing impaired, and adaptive physical education”, and in par. (E), inserted “and pre-school and early intervention services for handicapped children”, in par. (2), designated existing provisions as par. (B), added par. (A), and in par. (B), substituted “are only made under paragraph (1) to applicant agencies and institutions that meet State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or institution to meet such standards” for “awarded to applicant institutions and agencies under this subsection meet State and professionally recognized standards for the training of special education and related services personnel”, in par. (3), substituted “under paragraph (1)” for “under this subsection” and “institutions” for “such institutions”, and in par. (4), substituted “carrying out paragraph (1)” for “carrying out the purposes of this subsection”, “5 percent” for “5 per centum”, and “available for paragraph (1)” for “available for this subsection”, and struck out the comma after “exist”; in subsec. (b), substituted “may make grants” for “is authorized to make grants”, inserted “(including the application of new technology)”, “for the training of teachers to work in community and school settings with handicapped secondary school students,” and “and personnel providing early intervention services”; in subsec. (c), in par. (1), substituted “may make grants” for “is authorized to make grants”, “persons who work with parents” for “volunteers who work with parents”, and “living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented” for “, including those who are members of groups that have been traditionally underrepresented, living in the area to be served by the grant”, in par. (2), substituted a comma for a semicolon at the end of subpars. (A) and (B), in subpar. (A), substituted “under paragraph (1)” for “under this subsection” in two places and a comma for a semicolon after “children and youth”, and, in subpar. (C), substituted “activities for which a grant may be made under paragraph (1)” for “activities authorized under this subsection”, in par. (3), substituted “receiving a grant under paragraph (1)” for “receiving a grant under this subsection”, “to review the parent training and information activities for which the grant is made” for “to review such parent training and information activities”, and “renewal of a grant under paragraph (1) for a fiscal year” for “renewal of a grant under this subsection”, in par. (4), in introductory provision, substituted “paragraph (1)” for “this subsection”, in subpar. (A), inserted “and give priority to grants which involve unserved areas” and substituted a comma for a

semicolon at the end, and in subpar. (B), struck out the comma before and after “or on a State”, in par. (5), substituted a comma for a semicolon at the end of subpars. (A) to (E), in introductory provision, substituted “under paragraph (1)” for “under this subsection”, in subpar. (A), substituted “conditions of children” for “conditions of their child”, in subpar. (B), substituted “handicapped children’s” for “their handicapped child’s”, in subpar. (D), substituted “a handicapped child’s” for “their handicapped child’s”, and in subpar. (E), substituted “to handicapped children” for “to their handicapped child,”, added par. (6), redesignated former par. (6) as (7), and in par. (7), substituted “receiving a grant under paragraph (1)” for “receiving assistance under this subsection”, and redesignated former par. (7) as (8).

1983—Pub. L. 98-199, §11, amended section generally. Prior to amendment, section authorized the Secretary to make grants to institutions of higher education and other appropriate nonprofit institutions or agencies to assist them (1) in providing training of professional personnel to conduct training of teachers and other specialists in fields related to the education of handicapped children; (2) in providing training for personnel engaged or preparing to engage in employment as teachers of handicapped children, as supervisors of such teachers, or as speech correctionists or other special personnel providing special services for the education of such children, or engaged or preparing to engage in research in fields related to the education of such children; and (3) in establishing and maintaining scholarships, with such stipends and allowances as may be determined by the Secretary, for training personnel engaged in or preparing to engage in employment as teachers of the handicapped or as related specialists and provided that grants under this section could be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner” in provisions preceding par. (1).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-421 effective Oct. 1, 1992, see section 221 of Pub. L. 102-421, set out as a note under section 1424a of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1434, 1435, 5912 of this title; title 29 sections 725, 797b.

§ 1432. Grants to State educational agencies and institutions for traineeships

(a) Size and scope of grant

The Secretary shall make a grant of sufficient size and scope to each State educational agency for the purposes described in subsection (c) of this section and, in any State in which the State educational agency does not apply for such a grant, to an institution of higher education within such State for such purposes.

(b) Grants on competitive basis

The Secretary may also make a limited number of grants to State educational agencies on a

competitive basis for the purposes described in subsection (c) of this section. In any fiscal year, the Secretary may not expend for purposes of this subsection an amount that exceeds 10 percent of the amount expended for purposes of this section in the preceding fiscal year.

(c) Purpose of grants

Grants made under this section shall be for the purpose of assisting States in establishing and maintaining preservice and inservice programs to prepare special and regular education, related services and early intervention personnel to meet the needs of infants, toddlers, children, and youth with disabilities or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 1413 of this title and under section 1476(b)(8) of this title, and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities.

(d) Technical assistance to States

The Secretary is authorized to provide directly or by grant, contract, or cooperative agreement, technical assistance to State educational agencies on matters pertaining to the effective implementation of section 1413(a)(3) of this title.

(Pub. L. 91-230, title VI, §632, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98-199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99-457, title III, §309, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100-630, title I, §104(c), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101-476, title IV, §402, title IX, §901(b)(143), Oct. 30, 1990, 104 Stat. 1132, 1148; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, requiring no change in text.

Subsec. (c). Pub. L. 101-476, §§402(1), 901(b)(143), inserted "special and regular education, related services and early intervention" after "prepare", substituted "infants, toddlers, children, and youth with disabilities" for "handicapped infants, toddlers, children, and youth", and inserted before period at end " , and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities".

Subsec. (d). Pub. L. 101-476, §402(2), added subsec. (d).

1988—Pub. L. 100-630 amended section generally. Prior to amendment, section read as follows: "The Secretary shall make grants to each State educational agency and may make grants to institutions of higher education to assist in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 1413 of this title."

1986—Pub. L. 99-457 amended section generally. Prior to amendment, section read as follows: "The Secretary shall make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, programs for the preservice and inservice training of teachers of handicapped children, or supervisors of such teachers."

1983—Pub. L. 98-199, §11, amended section generally. Prior to amendment, section read as follows: "The Secretary is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, programs for training personnel engaged, or preparing to engage, in employment as teachers of handicapped children or as supervisors of such teachers. Such grants shall also be available to assist such institutions in meeting the cost of training such personnel."

Pub. L. 98-199, §3(b), substituted "Secretary" for "Commissioner".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

CONTINUATION GRANTS

Section 104(d) of Pub. L. 100-630 authorized Secretary of Education to make continuation grants for fiscal year 1989 to institutions of higher education that received competitive grants for fiscal year 1987.

§ 1433. Clearinghouses

(a) Establishment of national clearinghouses

The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public agencies or private nonprofit organizations or institutions for the establishment of three national clearinghouses: on children and youth with disabilities; on postsecondary education for individuals with disabilities; and on careers in special education, to—

- (1) collect, develop, and disseminate information,
- (2) provide technical assistance,
- (3) conduct coordinated outreach activities,
- (4) provide for the coordination and networking with other relevant national, State, and local organizations and information and referral resources,
- (5) respond to individuals and organizations seeking information, and
- (6) provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

(b) National clearinghouse for children and youth with disabilities

The national clearinghouse for children and youth with disabilities shall:

- (1) Collect and disseminate information (including the development of materials) on characteristics of infants, toddlers, children, and youth with disabilities and on programs, legislation, and services relating to their education under this chapter and other Federal laws.
- (2) Participate in programs and services related to disability issues for providing outreach, technical assistance, collection, and dissemination of information; and promoting networking of individuals with appropriate national, State, and local agencies and organizations.

(3) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of information, programs, and services.

(4) Collect, disseminate, and develop information on current and future national, Federal, regional, and State needs for providing information to parents, professionals, individuals with disabilities, and other interested parties relating to the education and related services of individuals with disabilities.

(5) Provide technical assistance to national, Federal, regional, State and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families.

(6) In carrying out the activities in this subsection, the clearinghouse will include strategies to disseminate information to underrepresented groups such as those with limited English proficiency.

(c) National clearinghouse on postsecondary education for individuals with disabilities

The national clearinghouse on postsecondary education for individuals with disabilities shall:

(1) Collect and disseminate information nationally on characteristics of individuals entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, and support services, as well as adaptations, and other resources available or recommended to facilitate the education of individuals with disabilities; available programs and services that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the education and training of individuals with disabilities.

(2) Identify areas of need for additional information.

(3) Develop new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

(4) Develop a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for the purposes of disseminating information and promoting awareness of issues relevant to the education of individuals with disabilities after high school and referring individuals who request information to local resources.

(5) Respond to requests from individuals with disabilities, their parents, and professionals who work with them, for information that will enable them to make appropriate decisions about postsecondary education and training.

(d) National clearinghouse on careers in special education

The national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the var-

ious fields relating to the education of children and youth with disabilities shall:

(1) Collect and disseminate information on current and future national, regional, and State needs for special education and related services personnel.

(2) Disseminate information to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

(3) Identify training programs available around the country.

(4) Establish a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

(5) Provide technical assistance to institutions seeking to meet State and professionally recognized standards.

(e) Priority consideration of applicants

(1) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in performing the functions established in this section; and with the ability to conduct such projects, communicate with intended consumers of information, and maintain the necessary communication with national, regional, State, and local agencies and organizations.

(2) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in providing informational services to minorities and minority organizations.

(f) Annual report to Congress

(1) Beginning in fiscal year 1991, and for each year thereafter, the Secretary shall obtain information on each project assisted under this section, including—

(A) the number of individuals served by disability category, as appropriate, including parents, professionals, students, and individuals with disabilities;

(B) a description of responses utilized;

(C) a listing of new products developed and disseminated; and

(D) a description of strategies and activities utilized for outreach to urban and rural areas with populations of minorities and underrepresented groups.

(2) A summary of the data required by this subsection shall be included in the annual report to Congress required under section 1418 of this title.

(Pub. L. 91-230, title VI, §633, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98-199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99-457, title III, §310, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100-630, title I, §104(e), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101-476, title IV, §403, title IX, §901(b)(144), Oct. 30, 1990, 104 Stat. 1133, 1149; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, §403, amended section generally, substituting provisions establishing clearinghouses on children and youth with disabilities, on postsecondary education for individuals with disabilities, and on careers in special education for provisions establishing clearinghouse on education of handicapped persons in subsec. (a), substituting provisions relating to duties and functions of clearinghouse for children and youth with disabilities for provisions establishing clearinghouse on postsecondary education for handicapped individuals in subsec. (b), substituting provisions relating to duties and functions of clearinghouse on postsecondary education for individuals with disabilities for provisions establishing clearinghouse to encourage careers in educating handicapped children and youth in subsec. (c), substituting provisions relating to duties and functions of clearinghouse on careers in special education for provisions relating to considerations governing awards and limitation of contracts with profitmaking organizations in subsec. (d), and adding subsecs. (e) and (f).

Subsec. (c). Pub. L. 101-476, §901(b)(144), as amended by Pub. L. 102-119, which directed the substitution of “children and youth with disabilities” for “handicapped children and youth”, could not be executed because “handicapped children and youth” did not appear following the general amendment of this section by Pub. L. 101-476, §403. See above.

1988—Subsec. (c)(2). Pub. L. 100-630 inserted “of information” after “Dissemination”.

1986—Pub. L. 99-457, §310(c), amended section catchline generally.

Subsec. (a). Pub. L. 99-457, §310(a), struck out former par. (1) designation preceding provisions relating to dissemination of information and provision of technical assistance, redesignated former subpars. (A) and (B) of par. (1) as pars. (1) and (2), and struck out former pars. (2) and (3), relating to encouragement of students and professional personnel to seek careers in fields relating to the education of the handicapped, and relating to information on available services and programs in postsecondary education for the handicapped.

Subsecs. (c), (d). Pub. L. 99-457, §310(b), added subsec. (c) and redesignated former subsec. (c) as (d).

1983—Pub. L. 98-199, §11, amended section generally. Prior to amendment, section authorized the Secretary to make grants to public or nonprofit private agencies, organizations, or institutions, or to enter into contracts with public or private agencies, organizations, or institutions, for projects for (1) encouraging students and professional personnel to work in various fields of education of handicapped children and youth through, among other ways, developing and distributing imaginative or innovative materials to assist in recruiting personnel for such careers, or publicizing existing forms of financial aid which might enable students to pursue such careers, or (2) disseminating information about the programs, services, and resources for the education of handicapped children, or providing referral services to parents, teachers, and other persons especially interested in the handicapped.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner” in provisions preceding par. (1).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a-51, 1090, 1424a, 1431, 1434, 1435 of this title.

§ 1434. Reports to the Secretary

(a) Not more than sixty days after the end of any fiscal year, each recipient of a grant or contract under this subchapter during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

(1) the number of individuals trained under the grant or contract, by category of training and level of training;

(2) the number of individuals trained under the grant or contract receiving degrees and certification, by category and level of training; and

(3) information described in section 1431(d)(11)¹ of this title and section 1433(f)(1) of this title, as applicable.

(b) A summary of the data required by this section shall be included in the annual report of the Secretary under section 1418 of this title.

(Pub. L. 91-230, title VI, §634, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98-199, §§3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 101-476, title IV, §404, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102-119, §9(c)(1), Oct. 7, 1991, 105 Stat. 595.)

REFERENCES IN TEXT

Section 1431(d)(11) of this title, referred to in subsec. (a)(3), was redesignated section 1431(e)(11) of this title by Pub. L. 102-421, title II, §202(b)(1), Oct. 16, 1992, 106 Stat. 2165.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 91-230, title VI, §635, Apr. 13, 1970, 84 Stat. 185, which is classified to section 1435 of this title, prior to general amendment of this subchapter by Pub. L. 98-199.

AMENDMENTS

1991—Subsec. (a)(3). Pub. L. 102-119 substituted “section 1431(d)(11)” for “section 1431(c)(9)”.

1990—Subsec. (a)(3). Pub. L. 101-476 added par. (3).

1983—Pub. L. 98-199, §11, amended section generally, substituting provisions requiring reports to the Secretary for provisions respecting grants for training physical educators and recreation personnel for handicapped children.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1418 of this title.

¹ See References in Text note below.

§ 1435. Authorization of appropriations**(a) In general**

(1) There are authorized to be appropriated to carry out this subchapter (other than sections 1431(a)(7), 1431(d),¹ and 1433 of this title) \$94,725,000 for fiscal year 1991, \$103,255,000 for fiscal year 1992, \$113,580,000 for fiscal year 1993, and \$123,760,000 for fiscal year 1994.

(2) There are authorized to be appropriated to carry out section 1431(a)(7) of this title \$19,250,000 for fiscal year 1991, \$21,175,000 for fiscal year 1992, \$23,292,500 for fiscal year 1993, and \$25,621,750 for fiscal year 1994.

(3) There are authorized to be appropriated to carry out section 1431(d)¹ of this title \$11,000,000 for fiscal year 1991, \$15,100,000 for fiscal year 1992, \$16,300,000 for fiscal year 1993, and \$17,600,000 for fiscal year 1994.

(4) There are authorized to be appropriated to carry out section 1433 of this title \$2,900,000 for fiscal year 1991, \$2,465,000 for fiscal year 1992, \$2,710,000 for fiscal year 1993, and \$2,960,000 for fiscal year 1994.

(b) Personnel training for careers in special education and early intervention

Of the funds appropriated pursuant to subsection (a) of this section for any fiscal year, the Secretary shall reserve not less than 65 per centum for activities described in subparagraphs (A) through (E) of section 1431(a)(1) of this title.

(Pub. L. 91-230, title VI, § 635, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98-199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99-457, title III, § 311, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 101-476, title IV, § 405, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102-119, §§ 9(c)(2), 10, 25(a)(13), Oct. 7, 1991, 105 Stat. 595, 606.)

REFERENCES IN TEXT

Section 1431(d) of this title, referred to in subsec. (a)(1), (3), was redesignated section 1431(e) of this title by Pub. L. 102-421, title II, § 202(b)(1), Oct. 16, 1992, 106 Stat. 2165.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 91-230, title VI, § 636, Apr. 13, 1970, 84 Stat. 185, as amended, which is classified to section 1436 of this title, prior to the general amendment of this subchapter by Pub. L. 98-199.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-119, § 9(c)(2)(A), substituted “section 1431(d)” for “section 1431(c)”.

Subsec. (a)(3). Pub. L. 102-119, § 10, substituted “\$15,100,000” for “\$12,100,000”, “\$16,300,000” for “\$13,300,000” and “\$17,600,000” for “\$14,600,000”.

Pub. L. 102-119, § 9(c)(2)(B), substituted “section 1431(d)” for “section 1431(c)”.

Subsec. (c). Pub. L. 102-119, § 25(a)(13), struck out subsec. (c) which read as follows: “Of the funds appropriated under subsection (a) of this section for any fiscal year, the Secretary shall reserve 10 percent for activities under section 1431(c) of this title.”

1990—Pub. L. 101-476 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There are authorized to be appropriated to carry out this subchapter (other than section 1433 of this title) \$70,400,000 for fiscal year 1987, \$74,500,000 for fiscal year 1988, and \$79,000,000 for fiscal year 1989. There are authorized to

be appropriated to carry out section 1433 of this title, \$1,200,000 for fiscal year 1987, \$1,900,000 for fiscal year 1988, and \$2,000,000 for fiscal year 1989.”

1986—Pub. L. 99-457 amended section generally. Prior to amendment, section read as follows:

“(a) There are authorized to be appropriated to carry out the provisions of this subchapter (other than section 1433 of this title) \$58,000,000 for fiscal year 1984, \$61,150,000 for fiscal year 1985, and \$64,370,000 for fiscal year 1986. There are authorized to be appropriated to carry out the provisions of section 1433 of this title, \$1,000,000 for fiscal year 1984, \$1,050,000 for fiscal year 1985, and \$1,110,000 for fiscal year 1986.

“(b) Of the funds appropriated pursuant to subsection (a) of this section for any fiscal year, the Secretary shall reserve 10 per centum for activities under section 1431(c) of this title.”

1983—Pub. L. 98-199, § 11, amended section generally, substituting provision authorizing appropriations for provision requiring reports to Secretary.

Pub. L. 98-199, § 3(b), substituted “Secretary” for “Commissioner”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

§ 1436. Omitted**CODIFICATION**

Section, Pub. L. 91-230, title VI, § 636, Apr. 13, 1970, 84 Stat. 185; Pub. L. 93-380, title VI, § 618, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95-49, § 3, June 17, 1977, 91 Stat. 230, authorized appropriations for the purposes of this subchapter, prior to the general amendment of this subchapter by Pub. L. 98-199, § 11, Dec. 2, 1983, 97 Stat. 1369. See section 1435 of this title.

SUBCHAPTER V—RESEARCH IN THE EDUCATION OF INDIVIDUALS WITH DISABILITIES**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in sections 1408, 1409, 1418, 1421, 1424a, 1491n of this title.

§ 1441. Research and related activities**(a) Grants, contracts, and cooperative agreements**

The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, other public agencies and nonprofit private organizations for the purpose of advancing and improving the knowledge base and improving the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children and youth with disabilities in regular education environments, to provide such children effective instruction and enable them to successfully learn. The activities supported under this section shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of in-

¹ See References in Text note below.

infants, toddlers, children, and youth with disabilities. In carrying out this section, the Secretary may support a wide range of research and related activities designed to—

(1) advance knowledge regarding the provision of instruction and other interventions to infants, toddlers, children, and youth with disabilities including—

(A) the organization, synthesis, and interpretation of current knowledge and the identification of knowledge gaps;

(B) the identification of knowledge and skill competencies needed by personnel providing special education, related services, and early intervention services;

(C) the improvement of knowledge regarding the developmental and learning characteristics of infants, toddlers, children, and youth with disabilities in order to improve the design and effectiveness of interventions and instruction;

(D) the evaluation of approaches and interventions;

(E) the development of instructional strategies, techniques, and activities;

(F) the improvement of curricula and instructional tools such as textbooks, media, materials, and technology;

(G) the development of assessment techniques, instruments (including tests, inventories, and scales), and strategies for measurement of progress and the identification, location, and evaluation of infants, toddlers, children, and youth with disabilities for the purpose of determining eligibility, program planning, and placement for special education, related services, and early intervention services. Particular attention should be given to the development of alternative assessment procedures and processes for minority individuals and those with limited English proficiency;

(H) the testing of research findings in practice settings to determine the application, usability, effectiveness, and generalizability of such research findings;

(I) the improvement of knowledge regarding families, minorities, limited English proficiency, and disabling conditions; and

(J) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice; and

(2) advance the use of knowledge by personnel providing special education, related services, and early intervention services including—

(A) the improvement of knowledge regarding how such individuals learn new knowledge and skills, and strategies for effectively facilitating such learning in preservice, inservice, and continuing education;

(B) the organization, integration, and presentation of knowledge so that such knowledge can be incorporated and imparted in personnel preparation, continuing education programs, and other relevant training and communication vehicles; and

(C) the expansion and improvement of networks that exchange knowledge and practice information.

(b) Qualifications of applicants

In carrying out subsection (a) of this section, the Secretary shall consider the special education, related services, or early intervention and research experience of applicants.

(c) Publication of proposed priorities

The Secretary shall publish proposed priorities under this subchapter in the Federal Register not later than 12 months preceding the fiscal year for which they are being announced, and shall allow a period of 60 days for public comments and suggestions. The Secretary shall, after analyzing and considering the public comments, publish final priorities in the Federal Register not later than 90 days after the close of the comment period.

(d) Index of projects

The Secretary shall provide an index (including the title of each project and the name and address of the funded organization) of all projects conducted under this subchapter in the prior fiscal year in the annual report described under section 1418 of this title.

(e) Coordination with other research; information to other agencies

The Secretary shall—

(1) coordinate the priorities established under subsection (b) of this section with research priorities established by the National Institute for Disability and Rehabilitation Research and other appropriate agencies conducting research pertaining to the education of individuals with disabilities; and

(2) provide information concerning priorities established under subsection (b) of this section to the National Council on Disability and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

(f) Attention deficit disorder

(1) The Secretary shall make grants or enter into contracts or cooperative agreements for the establishment of a center or centers designed to organize, synthesize, and disseminate current knowledge relating to children with attention deficit disorder with respect to the following:

(A) Assessment techniques, instruments, and strategies used for identification, location, evaluation and for measurement of progress.

(B) Knowledge and skill competencies needed by professionals providing special and regular education and related services.

(C) Environmental, organizational, resource, and other conditions necessary for effective professional practice.

(D) Developmental and learning characteristics.

(E) Instructional strategies, techniques, and activities.

(F) Curricula and instructional tools such as textbooks, media, materials, and technology.

(G) Strategies, techniques, and activities related to involvement of families.

(2) In awarding grants, contracts, and cooperative agreements under paragraph (1), the Secretary shall give priority consideration to applicants with—

(A) demonstrated knowledge concerning the disorder;

(B) proven effectiveness in performing the functions established in this subsection; and
(C) the ability to—

- (i) conduct such projects;
- (ii) communicate with intended consumers of information; and
- (iii) maintain the necessary communication with national, regional, State, and local agencies.

(g) Model demonstration programs

(1) The Secretary shall make grants, or enter into contracts or cooperative agreements, for the establishment of model demonstration programs, of which some will be school-based models, that provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

(2) Programs under paragraph (1) shall provide or identify personnel to assist children and youth with disabilities, their parents or guardians, special and regular education teachers, State and local education administrators, and related services personnel to resolve problems in a timely manner through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education and related services. Participation in this program does not preclude or delay due process under subchapter II of this chapter.

(3) Ombudsman services for programs under paragraph (1) shall be provided by social workers, parent advocates, psychologists, and persons with similar qualifications designated by the Secretary.

(h) Research grants for unique needs, specialized instruction, and progress measurement; family involvement; adult role models

(1) The Secretary may make grants to institutions of higher education, in partnership with other appropriate agencies and organizations such as local educational agencies and center schools for students who are deaf, to—

(A) conduct research in the unique needs of children and youth, including minority children and youth, with disabilities;

(B) develop and evaluate specialized instructional methods, materials, curricula, and technologies for use with such children and youth; and

(C) develop and evaluate assessment techniques, instruments, and strategies used to identify, evaluate, and measure the progress of such children and youth.

(2) Each grantee under this subsection shall provide for the meaningful involvement in its project of parents and family members and adult role models.

(Pub. L. 91-230, title VI, §641, Apr. 13, 1970, 84 Stat. 185; Pub. L. 95-49, §4, June 17, 1977, 91 Stat. 230; Pub. L. 98-199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99-457, title III, §312, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 100-630, title I, §105(b), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101-476, title V, §501, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102-421, title II, §203, Oct. 16, 1992, 106 Stat. 2165.)

AMENDMENTS

1992—Subsec. (h). Pub. L. 102-421 added subsec. (h).

1990—Pub. L. 101-476 amended section generally, substituting provisions relating to support of activities designed to advance knowledge regarding instruction and other interventions to infants, toddlers, children, and youth with disabilities for provisions relating to research of services for handicapped infants, toddlers, children, and youth and activities to increase knowledge and understanding of handicapping conditions and to improve special education, related services, and early intervention services; changing time periods for publication of proposed research priorities, comment, and publication of final priorities; deleting requirement that the Secretary make reports of available research projects; and inserting provisions relating to attention deficit disorder and model demonstration programs to remove barriers to appropriate services for children and youth with disabilities.

1988—Subsec. (a). Pub. L. 100-630, §105(b)(1), (2), substituted “children, and youth” for “children and youth” wherever appearing, and inserted a comma after “scales” in par. (6).

Subsec. (e). Pub. L. 100-630, §105(b)(3), substituted “Institute on Disability and Rehabilitation Research” for “Institute of Handicapped Research” and “Council on Disability” for “Council on the Handicapped”.

1986—Subsec. (a). Pub. L. 99-457 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, and other public agencies and non-profit private organizations for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities shall be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth. Research and related activities assisted under this section shall include, but not be limited to, the following:

“(1) The development of new and improved techniques and devices for teaching handicapped children and youth.

“(2) The development of curricula which meet the unique educational needs of handicapped children and youth.

“(3) The application of new technologies and knowledge for the purpose of improving the instruction of handicapped children and youth.

“(4) The development of program models and exemplary practices in areas of special education.

“(5) The dissemination of information on research and related activities conducted under this subchapter to interested individuals and organizations.”

Subsec. (b). Pub. L. 99-457 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In carrying out this section the Secretary shall consider the special education experience of the applicant and the ability of the applicant to disseminate the findings of any grant or contract.”

Subsec. (c). Pub. L. 99-457 amended subsec. (c) generally, substituting “2 years” for “two years”, “60 days” for “sixty days”, and “30 days” for “thirty days”.

Subsec. (d). Pub. L. 99-457, in amending section generally, restated subsec. (d) without change.

Subsec. (e). Pub. L. 99-457 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The Secretary shall coordinate the research priorities established under this section with research priorities established by the National Institute of Handicapped Research and shall provide information concerning research priorities established under this section to the

National Council on the Handicapped and to the National Advisory Committee on the Education of Handicapped Children.”

1983—Pub. L. 98-199, §12, amended section generally. Prior to amendment, section read as follows: “The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children, including the development and conduct of model programs designed to meet the special educational needs of such children.”

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner”.

1977—Pub. L. 95-49 inserted provisions calling for the development and conduct of model programs designed to meet the special educational needs of handicapped children.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-421 effective Oct. 1, 1992, see section 221 of Pub. L. 102-421, set out as a note under section 1424a of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

EDUCATION AND TRAINING FOR INDIVIDUALS AT RISK

Pub. L. 100-297, title VI, §6011, Apr. 28, 1988, 102 Stat. 423, provided that:

“(a)(1) GENERAL AUTHORITY.—The Secretary is authorized to make a grant for a project of national significance to develop or demonstrate new or improved methods of existing approaches or techniques which will contribute to the education and training for individuals who are at risk such as—

“(A) infants, toddlers, children (including preschoolers), youth, and adults with disabilities; and

“(B) individuals with limited English proficiency.

“(2) The project funded under this section may include the development of—

“(A) a statewide delivery system for severely handicapped infants, toddlers, children, youth, and adults for access to adaptive technology, including alternative communication systems;

“(B) a statewide comprehensive plan to strengthen and coordinate special education and related services for handicapped youth who are currently in school or who left school to assist such youth in making the transition to post-secondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services.

“(3) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(4) This grant shall be awarded to a predominantly rural centrally located western State which has a high birthrate and with a low per pupil expenditure.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$4,000,000 for the fiscal year 1989 to carry out the provision of this section.”

§ 1442. Research and demonstration projects in physical education and recreation for children with disabilities

The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for children with disabilities, including therapeutic recreation, and to conduct research, surveys, or demonstrations relating to physical education or recreation for children with disabilities, including therapeutic recreation.

(Pub. L. 91-230, title VI, §642, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98-199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 101-476, title V, §502, Oct. 30, 1990, 104 Stat. 1138; Pub. L. 102-119, §25(a)(14), Oct. 7, 1991, 105 Stat. 606.)

AMENDMENTS

1991—Pub. L. 102-119 substituted “children with disabilities” for “handicapped children” in section catchline.

1990—Pub. L. 101-476 substituted “recreation for children with disabilities, including therapeutic recreation” for “recreation for handicapped children” in two places.

1983—Pub. L. 98-199, §12, reenacted section without change.

Pub. L. 98-199, §3(b), substituted “Secretary” for “Commissioner”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

§ 1443. Repealed. Pub. L. 101-476, title V, §503, Oct. 30, 1990, 104 Stat. 1138

Section, Pub. L. 91-230, title VI, §643, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98-199, §§3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 99-457, title III, §313, Oct. 8, 1986, 100 Stat. 1170; Pub. L. 100-630, title I, §105(c), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101-476, title IX, §901(b)(145), (146), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to requirement of the Secretary to convene panels of experts to evaluate proposals for projects under subchapters III through VII of this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as an Effective Date of 1990 Amendment note under section 1087ee of this title.

§ 1444. Authorization of appropriations

For purposes of carrying out this subchapter, there are authorized to be appropriated \$21,100,000 for fiscal year 1990, \$24,650,000 for fiscal year 1991, \$27,400,000 for fiscal year 1992,

\$30,200,000 for fiscal year 1993, and \$33,200,000 for fiscal year 1994.

(Pub. L. 91-230, title VI, § 643, formerly § 644, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93-380, title VI, § 619, Aug. 21, 1974, 88 Stat. 585; Pub. L. 95-49, § 5, June 17, 1977, 91 Stat. 231; Pub. L. 98-199, § 12, Dec. 2, 1983, 97 Stat. 1374; Pub. L. 99-457, title III, § 314, Oct. 8, 1986, 100 Stat. 1171; renumbered § 643 and amended Pub. L. 101-476, title V, §§ 503, 504, title IX, § 901(b)(147), (148), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102-119, § 25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, § 901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, § 901(b)(147), (148), as amended by Pub. L. 102-119, which directed the substitution of “individuals with disabilities” for “handicapped individuals” in section 644(a)(1), (2) (20 U.S.C. 1444(a)(1), (2)) could not be executed to this section and was probably intended to be an amendment of section 1443(a)(1), (2) of this title prior to the repeal of that section by Pub. L. 101-476, § 503.

Pub. L. 101-476, § 504, in amending section generally, substituted provisions authorizing appropriations for fiscal years 1990 to 1994 for provisions authorizing appropriations for fiscal years 1987 to 1989.

1986—Pub. L. 99-457, in amending section generally, substituted provisions authorizing appropriations for fiscal years 1987 to 1989 for provisions authorizing appropriations for fiscal years 1984 to 1986.

1983—Pub. L. 98-199 amended section generally, substituting appropriations authorizations of \$20,000,000, \$21,100,000, and \$22,200,000 for fiscal years 1984 through 1986, respectively, for prior authorizations of \$20,000,000, \$22,000,000, \$24,000,000, \$26,000,000, and \$28,000,000 for fiscal years 1978 through 1982, respectively.

1977—Pub. L. 95-49 authorized appropriation of \$20,000,000 for fiscal year 1978, \$22,000,000 for fiscal year 1979, \$24,000,000 for fiscal year 1980, \$26,000,000 for fiscal year 1981, and \$28,000,000 for fiscal year 1982 for the purposes of carrying out this subchapter.

1974—Pub. L. 93-380 substituted appropriations authorization of \$15,000,000; \$20,000,000; and \$20,000,000 for fiscal years ending June 30, 1975, 1976, and 1977, for prior authorization of \$27,000,000; \$35,500,000; and \$45,000,000; for fiscal years ending June 30, 1971, 1972, and 1973.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, with an exception for previously obligated funds and certain interim provisions for financial assistance, see section 18 of Pub. L. 98-199 set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-49 effective Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as a note under section 1426 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date note under section 1221-1 of this title.

SUBCHAPTER VI—INSTRUCTIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1408, 1409, 1418, 1421, 1424a, 1491n of this title.

§ 1451. Purposes

The purposes of this subchapter are to promote—

(1) the general welfare of deaf and hard of hearing individuals by—

(A) bringing to such individuals understanding and appreciation of those films and television programs that play such an important part in the general and cultural advancement of hearing individuals;

(B) providing through these films and television programs enriched educational and cultural experiences through which deaf and hard of hearing individuals can be brought into better touch with the realities of their environment; and

(C) providing a wholesome and rewarding experience that deaf and hard of hearing individuals may share together; and¹

(2) the educational advancement of individuals with disabilities by—

(A) carrying on research in the use of educational media for individuals with disabilities;

(B) producing and distributing educational media for the use of individuals with disabilities, their parents, their actual or potential employers, and other individuals directly involved in work for the advancement of individuals with disabilities;

(C) training individuals in the use of educational media for the instruction of individuals with disabilities; and

(D) utilizing educational media to help eliminate illiteracy among individuals with disabilities;²

(3) the general welfare of visually impaired individuals by—

(A) bringing to such individuals an understanding and appreciation of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in the general and cultural advancement of visually unimpaired individuals; and

(B) ensuring access to television programming and other video materials.

(Pub. L. 91-230, title VI, § 651, Apr. 13, 1970, 84 Stat. 186; Pub. L. 100-630, title I, § 106(b), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101-476, title VI, § 601, title IX, § 901(b)(150), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102-119, § 25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, § 901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, § 601(1), which directed that subsec. (a) designation be struck out, could not be executed because it had been struck out by Pub. L. 100-630. See 1988 Amendment note below.

Par. (1). Pub. L. 101-476, § 601(2)(A)–(C), in introductory provisions and subpars. (B) and (C) inserted “and hard of hearing” after “deaf”, in subpar. (A) inserted “and television programs” after “those films”, and in subpar. (B) inserted “and television programs” after “these films”.

¹ So in original. The word “and” probably should not appear.

² So in original. Probably should be followed by “and”.

Par. (2). Pub. L. 101-476, §901(b)(150), as amended by Pub. L. 102-119, which directed the substitution of “individuals with disabilities” for “handicapped individuals” each place such term appears in subsec. (a)(2), was executed to par. (2) to reflect the probable intent of Congress and the prior deletion of the subsec. (a) designation by Pub. L. 100-630. See 1988 Amendment note below.

Par. (2)(D). Pub. L. 101-476, §601(2)(3), added subpar. (D).

Par. (3). Pub. L. 101-476, §601(3)(4), added par. (3).

1988—Pub. L. 100-630 amended section generally. Prior to amendment, section read as follows:

“(a) The purposes of this subchapter are to promote—

“(1) the general welfare of deaf persons by (A) bringing to such persons understanding and appreciation of those films which play such an important part in the general and cultural advancement of hearing persons, (B) providing through these films enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment, and (C) providing a wholesome and rewarding experience which deaf persons may share together; and

“(2) the educational advancement of handicapped persons by (A) carrying on research in the use of educational media for the handicapped, (B) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of educational media for the instruction of the handicapped.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

§ 1452. Captioned films, television, descriptive video, and educational media for individuals with disabilities

(a) Establishment of loan service

The Secretary shall establish a loan service of captioned films, descriptive video, and educational media for the purpose of making such materials available, in accordance with regulations, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including for the purpose of addressing problems of illiteracy among individuals with disabilities.

(b) Authority of Secretary

The Secretary is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchase equipment necessary for the administration of this subchapter;

(3) provide, by grant or contract, for the captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials;

(4) provide, by grant or contract, for the distribution of captioned and video-described films, video materials, and other educational media and equipment through State schools for individuals with disabilities, public libraries, and such other agencies or entities as the

Secretary may deem appropriate to serve as local or regional centers for such distribution;

(5) provide, by grant or contract, for the conduct of research in the use of educational and training films and other educational media for individuals with disabilities, for the production and distribution of educational and training films and other educational media for individuals with disabilities and the training of individuals in the use of such films and media, including the payment to those individuals of such stipends (including allowances for travel and other expenses of such individuals and their dependents) as the Secretary may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies;

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations; and

(8) provide by grant or contract for educational media and materials for deaf and hard of hearing individuals.

(c) National Theatre of the Deaf; other non-profit organizations

The Secretary may make grants to or enter into contracts or cooperative agreements with the National Theatre of the Deaf, Inc. and other appropriate non-profit organizations for the purpose of providing cultural experiences to—

(1) enrich the lives of deaf and hard of hearing children and adults,

(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard of hearing individuals, and

(3) promote the integration of hearing and deaf and hard of hearing individuals through shared cultural, educational, and social experiences.

(d) Transcribed tapes and cassettes

(1) The Secretary is authorized to make a grant or enter into a contract for the purpose of providing current, free textbooks and other educational publications and materials to blind and other print-handicapped students in elementary, secondary, postsecondary, and graduate schools and other institutions of higher education through the medium of transcribed tapes and cassettes.

(2) For the purpose of this subsection, the term “print-handicapped” refers to any individual who is blind or severely visually impaired, or who, by reason of a physical or perceptual disability, is unable to read printed material unassisted.

(Pub. L. 91-230, title VI, §652, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93-380, title VI, §620(1), Aug. 21, 1974, 88 Stat. 585; Pub. L. 94-482, title V, §501(h), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 98-199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99-457, title III, §315, Oct. 8, 1986, 100 Stat. 1171; Pub. L. 100-630, title I, §106(c), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101-476, title VI, §602, title IX, §901(b)(151), (152), Oct. 30, 1990, 104 Stat. 1139, 1149; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, requiring no change in text.

Pub. L. 101-476, §602(1), inserted references to television and descriptive video, in section catchline.

Subsec. (a). Pub. L. 101-476, §901(b)(151), substituted “individuals with disabilities” for “handicapped individuals” in four places.

Pub. L. 101-476, §602(2), inserted “, descriptive video,” after “films”.

Subsec. (b)(3). Pub. L. 101-476, §602(3)(A), substituted “captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials” for “captioning of films”.

Subsec. (b)(4). Pub. L. 101-476, §602(3)(B), substituted “captioned and video-described films, video materials,” for “captioned films” and inserted “or entities” after “agencies”.

Subsec. (b)(5). Pub. L. 101-476, §901(b)(152), substituted “individuals with disabilities” for “handicapped individuals” in two places.

Subsec. (b)(8). Pub. L. 101-476, §603(3)(C), inserted “and hard of hearing” after “deaf”.

Subsec. (c). Pub. L. 101-476, §602(4)-(7), inserted “and other appropriate non-profit organizations” after “Inc.” and substituted “cultural” for “theatrical” in introductory provisions, inserted “and hard of hearing” after “deaf” in pars. (1) and (2), and inserted “and hard of hearing” after “deaf” and “, educational, and social” after “cultural” in par. (3).

Subsec. (d). Pub. L. 101-476, §602(8), added subsec. (d). 1988—Pub. L. 100-630, §106(c)(1), substituted “individuals” for “persons” in section catchline.

Subsec. (a). Pub. L. 100-630, §106(c)(2), (3), substituted “individuals” for “persons” in three places and “handicapped individuals” for “the handicapped” in two places.

Subsec. (b)(2). Pub. L. 100-630, §106(c)(4), substituted “purchase” for “purchased” and “necessary for” for “necessary to”.

Subsec. (b)(4). Pub. L. 100-630, §106(c)(3), substituted “handicapped individuals” for “the handicapped”.

Subsec. (b)(5). Pub. L. 100-630, §106(c)(2), (3), (5), substituted “handicapped individuals” for “the handicapped” in two places, “individuals” for “persons” in three places, and “the Secretary” for “he”.

Subsec. (b)(6). Pub. L. 100-630, §106(c)(6), struck out “and” after “agencies”.

Subsec. (b)(8). Pub. L. 100-630, §106(c)(7), substituted “deaf individuals” for “the deaf”.

Subsec. (c)(2), (3). Pub. L. 100-630, §106(c)(8), substituted “deaf individuals” for “deaf people”.

1986—Subsec. (a). Pub. L. 99-457, §315(a), inserted “, in accordance with regulations,” after “available” and substituted “, including for the purpose of addressing problems of illiteracy among the handicapped” for “in accordance with regulations” at end.

Subsec. (b)(4). Pub. L. 99-457, §315(b)(1), inserted “, public libraries,” after “handicapped”.

Subsec. (b)(8). Pub. L. 99-457, §315(b)(2), added par. (8).

Subsec. (c). Pub. L. 99-457, §315(c), added subsec. (c). 1983—Pub. L. 98-199 substituted “Secretary” for “Commissioner” wherever appearing.

1976—Subsec. (b)(3) to (5). Pub. L. 94-482 substituted “grant or contract” for “grant and contract” wherever appearing.

1974—Subsec. (b)(3) to (5). Pub. L. 93-380 inserted “, by grant and contract,” after “provide”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date note under section 1221-1 of this title.

NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS

Pub. L. 102-325, title XV, §1521, July 23, 1992, 106 Stat. 833, provided that:

“(a) PURPOSE.—The purpose of this section is to coordinate the production and distribution of educational materials in an accessible form, especially audio and digital text production, to college and university based print-disabled populations.

“(b) PROGRAM AUTHORITY.—

“(1) IN GENERAL.—The Secretary of Education is authorized to award a grant or contract to pay the Federal share of the cost of establishing a National Clearinghouse for Postsecondary Education Materials (hereafter in this part referred to as the ‘Clearinghouse’) to coordinate the production and distribution of educational materials, in an accessible form, including audio and digital, for students with disabilities.

“(2) AWARD BASIS.—The grant or contract awarded pursuant to paragraph (1) shall be made on a competitive basis.

“(3) DURATION.—The grant or contract awarded under this section shall be awarded for a period of 3 years.

“(c) USE OF FUNDS.—The grant or contract awarded under this section shall be used to—

“(1) catalog in computer-readable form postsecondary education materials;

“(2) identify college campus-based services producing taped texts whose technical and reader quality make them eligible for inclusion in the Clearinghouse and share its quality control standards with campus-based student support services offices serving students with disabilities;

“(3) promote data conversion and programming to allow the electronic exchange of bibliographic information between existing on line systems;

“(4) encourage outreach efforts that will educate print-disabled individuals, as defined by section 652(d)(2) of the Individuals With Disabilities Education Act [20 U.S.C. 1452(d)(2)], educators, schools, and agencies about the Clearinghouse’s activities;

“(5) upgrade existing computer systems at the Clearinghouse;

“(6) coordinate with identifiable and existing data bases containing postsecondary education materials, including the programs authorized under section 652(d) of the Individuals With Disabilities [Education] Act; and

“(7) develop and share national guidelines and standards for the production of audio and digital text materials.

“(d) FEDERAL SHARE LIMITATION.—The Federal share under this section may not be more than—

“(1) 80 percent of the total cost of the program in the first year;

“(2) 60 percent of the total cost of the program in the second year; and

“(3) 50 percent of the total cost of the program in the third year.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of this section, \$1,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 and 1995.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1454 of this title.

§ 1453. Repealed. Pub. L. 99-457, title III, § 316, Oct. 8, 1986, 100 Stat. 1171

Section, Pub. L. 91-230, title VI, § 653, Apr. 13, 1970, 84 Stat. 187; Pub. L. 94-142, § 6(b), Nov. 29, 1975, 89 Stat. 795; Pub. L. 99-386, title II, § 204, Aug. 22, 1986, 100 Stat. 823, related to establishment and operation of centers on educational media and materials for handicapped.

§ 1454. Authorization of appropriations

For the purpose of carrying out section 1452 of this title there are authorized to be appropriated \$20,010,000 for fiscal year 1991, \$22,010,000 for fiscal year 1992, \$24,200,000 for fiscal year 1993, and \$26,600,000 for fiscal year 1994.

(Pub. L. 91-230, title VI, § 653, formerly § 654, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93-380, title VI, § 620(2), Aug. 21, 1974, 88 Stat. 585; Pub. L. 95-49, § 6, June 17, 1977, 91 Stat. 231; Pub. L. 98-199, § 13, Dec. 2, 1983, 97 Stat. 1374; renumbered § 653 and amended Pub. L. 99-457, title III, § 316, Oct. 8, 1986, 100 Stat. 1171; Pub. L. 101-476, title VI, § 603, Oct. 30, 1990, 104 Stat. 1140.)

AMENDMENTS

1990—Pub. L. 101-476 amended section generally, substituting provisions authorizing appropriations for section 1452 of this title for fiscal years 1991 to 1994 for provisions authorizing appropriations for this subchapter for fiscal years 1987 to 1989.

1986—Pub. L. 99-457 amended section generally, substituting provisions authorizing appropriations for fiscal years 1987 to 1989 for provisions authorizing appropriations for fiscal years 1984 to 1986.

1983—Pub. L. 98-199 amended section generally, substituting appropriations authorizations of \$19,000,000, \$20,000,000, and \$21,100,000 for fiscal years 1984 through 1986, respectively, for prior authorizations of \$24,000,000, \$25,000,000, \$27,000,000 for fiscal years 1978 through 1980, respectively, and \$29,000,000 for fiscal year 1981 and succeeding fiscal years.

1977—Pub. L. 95-49 raised appropriation authorization for fiscal year 1978 from \$22,000,000 to \$24,000,000, for fiscal year 1979 from \$22,000,000 to \$25,000,000, for fiscal year 1980 from \$22,000,000 to \$27,000,000, and for fiscal year 1981 and each succeeding fiscal year thereafter from \$22,000,000 to \$29,000,000.

1974—Pub. L. 93-380 substituted appropriations authorization of \$18,000,000; and \$22,000,000 for fiscal years ending June 30, 1975, and 1976 and thereafter for prior authorization of \$12,500,000; \$15,000,000; and \$20,000,000 for fiscal years ending June 30, 1971, 1972, and 1973 and thereafter.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-199 effective Dec. 2, 1983, see section 18 of Pub. L. 98-199, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-49 effective Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as a note under section 1426 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date note under section 1221-1 of this title.

SUBCHAPTER VII—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1408, 1409, 1418, 1421, 1424a, 1491n of this title.

§ 1461. Financial assistance

(a) The Secretary may make grants or enter into contracts or cooperative agreements with institutions of higher education, State and local educational agencies, or other appropriate agencies and organizations for the purpose of advancing the use of new technology, media, and materials in the education of students with disabilities and the provision of related services and early intervention services to infants and toddlers with disabilities. In carrying out this section, the Secretary may fund projects or centers for the purposes of—

(1) determining how technology, assistive technology, media, and materials are being used in the education of individuals with disabilities and how they can be used most effectively, efficiently, and appropriately,

(2) designing and adapting technology, assistive technology, media, and materials to improve the education of students with disabilities,

(3) assisting the public and private sectors in the development and marketing of technology, assistive technology, media, and materials for the education of individuals with disabilities,

(4) disseminating information on the availability and use of technology, assistive technology, media, and materials for the education of individuals with disabilities, where appropriate, to entities described in section 1409(g) of this title,

(5) increasing access to and use of assistive technology devices and assistive technology services in the education of infants, toddlers, children, and youth with disabilities, and other activities authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 [29 U.S.C. 2201 et seq.], as such Act relates to the education of students with disabilities, and

(6) examining how these purposes can address the problem of illiteracy among individuals with disabilities.

(b)(1) With respect to new technology, media, and materials utilized with funds under this subchapter to improve the education of students with disabilities, the Secretary shall make efforts to ensure that such instructional materials are closed captioned.

(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) of this section unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title

I of the Technology-Related Assistance for Individuals with Disabilities Act of 1988 [29 U.S.C. 2211 et seq.].

(Pub. L. 91-230, title VI, § 661, as added Pub. L. 99-457, title III, § 317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 100-630, title I, § 107(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101-476, title VII, § 701, title IX, § 901(b)(154)–(156), Oct. 30, 1990, 104 Stat. 1140, 1149; Pub. L. 102-119, § 25(a)(15), (b), Oct. 7, 1991, 105 Stat. 606, 607.)

REFERENCES IN TEXT

The Technology-Related Assistance for Individuals With Disabilities Act of 1988, referred to in subsecs. (a)(5) and (b)(2), is Pub. L. 100-407, Aug. 19, 1988, 102 Stat. 1044, as amended, which is classified generally to chapter 24 (§ 2201 et seq.) of Title 29, Labor. Title I of the Act is classified generally to subchapter I (§ 2211 et seq.) of chapter 24 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 1461, Pub. L. 91-230, title VI, § 661, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93-380, title VI, § 621, Aug. 21, 1974, 88 Stat. 585; Pub. L. 98-199, § 3(b), Dec. 2, 1983, 97 Stat. 1358, related to research, training, and model centers respecting special programs for children with specific learning disabilities, providing in subsec. (a), Secretary's grant and contract authority, functions of model centers, and considerations governing making of contracts and grants; subsec. (b), other considerations in making awards, geographical distribution of training programs and trained personnel, and a model center in each State; and subsec. (c), appropriations authorization of \$10, \$20, and \$20 million dollars for fiscal years ending June 30, 1975 through 1977, respectively, prior to repeal by Pub. L. 98-199, § 14, Dec. 2, 1983, 97 Stat. 1374.

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476, § 901(b). See 1990 Amendment note below.

Subsec. (b)(2). Pub. L. 102-119, § 25(a)(15), substituted “the Technology-Related Assistance for Individuals with Disabilities Act of 1988” for “Public Law 100-407”.

1990—Pub. L. 101-476, § 901(b), was amended in its directory language by Pub. L. 102-119, § 25(b), requiring no change in text.

Subsec. (a). Pub. L. 101-476, §§ 701(1), (6), 901(b)(154), (155), designated existing provisions as subsec. (a), and in introductory provisions substituted “students with disabilities” for “handicapped students”, “provision of related services and early intervention services” for “provision of early intervention”, and “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

Subsec. (a)(1). Pub. L. 101-476, §§ 701(2), 901(b)(156), inserted “assistive technology,” after “technology,” and substituted “individuals with disabilities” for “handicapped individuals” and “most effectively, efficiently, and appropriately” for “more effectively”.

Subsec. (a)(2). Pub. L. 101-476, §§ 701(3), 901(b)(154), substituted “technology, assistive technology,” for “new technology,” and “students with disabilities” for “handicapped students”.

Subsec. (a)(3). Pub. L. 101-476, §§ 701(3), 901(b)(156), substituted “technology, assistive technology,” for “new technology,” and “individuals with disabilities” for “handicapped individuals”.

Subsec. (a)(4). Pub. L. 101-476, §§ 701(3), (4), 901(b)(156), substituted “technology, assistive technology,” for “new technology,” and “individuals with disabilities” for “handicapped individuals” and inserted “, where appropriate, to entities described in section 1409(g) of this title”.

Subsec. (a)(5), (6). Pub. L. 101-476, § 701(5), added pars. (5) and (6).

Subsec. (b). Pub. L. 101-476, § 701(6), added subsec. (b). 1988—Pub. L. 100-630 in introductory provisions, substituted “section” for “subsection”, and in pars. (1), (3), and (4), substituted “handicapped individuals” for “the handicapped”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

§ 1462. Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated \$11,900,000 for fiscal year 1991, \$12,860,000 for fiscal year 1992, \$13,890,000 for fiscal year 1993, and \$15,000,000 for fiscal year 1994.

(Pub. L. 91-230, title VI, § 662, as added Pub. L. 99-457, title III, § 317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 101-476, title VII, § 702, Oct. 30, 1990, 104 Stat. 1141.)

PRIOR PROVISIONS

A prior section 662 of Pub. L. 91-230, title VI, Apr. 13, 1970, 84 Stat. 188, eff. July 1, 1971, repealed sections 611 to 618, 621 to 624, and 871 to 880a of this title, and sections 2491 to 2494 and 2698 to 2698b of Title 42, The Public Health and Welfare, and amended section 676 of this title, prior to repeal by Pub. L. 98-199, § 14, Dec. 2, 1983, 97 Stat. 1374.

AMENDMENTS

1990—Pub. L. 101-476 amended section generally, substituting provisions authorizing appropriations for fiscal years 1991 to 1994 for provisions authorizing appropriations for fiscal years 1987 to 1989.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SUBCHAPTER VIII—INFANTS AND TODDLERS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 927, 1413, 1418, 1419, 1422, 1423, 1491n, 8102 of this title; title 10 section 2164; title 29 sections 2211, 2231; title 42 sections 280c-6, 280d, 290ff-1, 1396b, 5011, 5116, 6024.

§ 1471. Congressional findings and policy

(a) Findings

The Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay,

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age,

(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independent living in society,

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities, and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of histori-

cally underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(b) Policy

It is therefore the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families,

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), and

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families.

(Pub. L. 91-230, title VI, § 671, as added Pub. L. 99-457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1145; amended Pub. L. 100-630, title I, § 108(a), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101-476, title IX, § 901(b)(158)-(161), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102-119, §§ 11, 25(a)(16), (b), Oct. 7, 1991, 105 Stat. 595, 606, 607.)

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476, § 901(b). See 1990 Amendment note below.

Subsec. (a)(5). Pub. L. 102-119, § 11, added par. (5).

Subsec. (b)(3). Pub. L. 102-119, § 25(a)(16), substituted “infants and toddlers with disabilities and their families” for “handicapped infants, toddlers, and their families”.

1990—Pub. L. 101-476, § 901(b), was amended in its directory language by Pub. L. 102-119, § 25(b), requiring no change in text.

Subsec. (a). Pub. L. 101-476, § 901(b)(158), (159), in pars. (1), (2), and (4) substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers” and in par. (3) substituted “individuals with disabilities” for “handicapped individuals”.

Subsec. (b)(1). Pub. L. 101-476, § 901(b)(160), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

Subsec. (b)(3). Pub. L. 101-476, § 901(b)(161), which directed the substitution of “infants and toddlers with disabilities” for “handicapped infants and toddlers”, could not be executed because the phrase “handicapped infants and toddlers” did not appear in text.

1988—Subsec. (a)(4). Pub. L. 100-630, § 108(a)(1), substituted “handicapped infants and toddlers” for “infants and toddlers with handicaps”.

Subsec. (b)(3). Pub. L. 100-630, § 108(a)(2), substituted “their” for “its” after “enhance”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

§ 1472. Definitions

As used in this subchapter—

(1) The term “infants and toddlers with disabilities” means individuals from birth to age 2, inclusive, who need early intervention services because they—

(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of

the following areas: cognitive development, physical development, language and speech development (hereafter in this subchapter referred to as “communication development”), psychosocial development (hereafter in this subchapter referred to as “social or emotional development”), or self-help skills (hereafter in this subchapter referred to as “adaptive development”), or

(B) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay.

Such term may also include, at a State’s discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

(2) The term “early intervention services” are developmental services which—

(A) are provided under public supervision,

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees,

(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas:

- (i) physical development,
- (ii) cognitive development,
- (iii) communication development,
- (iv) social or emotional development, or
- (v) adaptive development,

(D) meet the standards of the State, including the requirements of this subchapter,

(E) include—

- (i) family training, counseling, and home visits,
- (ii) special instruction,
- (iii) speech pathology and audiology,
- (iv) occupational therapy,
- (v) physical therapy,
- (vi) psychological services,
- (vii) case management services (hereafter in this subchapter referred to as “service coordination services”),
- (viii) medical services only for diagnostic or evaluation purposes,
- (ix) early identification, screening, and assessment services,

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

- (xi) social work services,
- (xii) vision services,
- (xiii) assistive technology devices and assistive technology services, and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant’s or toddler’s family to receive early intervention services,

(F) are provided by qualified personnel, including—

- (i) special educators,
- (ii) speech and language pathologists and audiologists,
- (iii) occupational therapists,
- (iv) physical therapists,
- (v) psychologists,
- (vi) social workers,

- (vii) nurses,
- (viii) nutritionists,
- (ix) family therapists,
- (x) orientation and mobility specialists,
- and
- (xi) pediatricians and other physicians,

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate, and

(H) are provided in conformity with an individualized family service plan adopted in accordance with section 1477 of this title.

(3) The term “developmental delay” has the meaning given such term by a State under section 1476(b)(1) of this title.

(4) The term “Council” means the State Interagency Coordinating Council established under section 1482 of this title.

(Pub. L. 91-230, title VI, §672, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1146; amended Pub. L. 100-630, title I, §108(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101-476, title VIII, §801, title IX, §901(b)(162), (163), Oct. 30, 1990, 104 Stat. 1141, 1149; Pub. L. 102-119, §§12, 25(b), Oct. 7, 1991, 105 Stat. 595, 607.)

AMENDMENTS

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476, §901(b). See 1990 Amendment note below.

Par. (1)(A). Pub. L. 102-119, §12(a), substituted “language and speech development (hereafter in this subchapter referred to as ‘communication development’), psychosocial development (hereafter in this subchapter referred to as ‘social or emotional development’), or self-help skills (hereafter in this subchapter referred to as ‘adaptive development’),” for “language and speech development, psychosocial development, or self-help skills.”

Par. (2)(C)(iii) to (v). Pub. L. 102-119, §12(b)(1), substituted “communication” for “language and speech” in cl. (iii), “social or emotional” for “psychosocial” in cl. (iv), and “adaptive development” for “self-help skills” in cl. (v).

Par. (2)(E)(vii). Pub. L. 102-119, §12(b)(2)(A), substituted “case management services (hereafter in this part referred to as ‘service coordination services’),” for “case management services.”

Par. (2)(E)(xii) to (xiv). Pub. L. 102-119, §12(b)(2)(B), added cls. (xii) to (xiv).

Par. (2)(F)(vii) to (xi). Pub. L. 102-119, §12(b)(3), struck out “and” at end of cls. (vii) and (viii) and added cls. (ix) to (xi).

Par. (2)(G), (H). Pub. L. 102-119, §12(b)(4), added subpar. (G) and redesignated former subpar. (G) as (H).

1990—Pub. L. 101-476, §901(b), was amended in its directory language by Pub. L. 102-119, §25(b), requiring no change in text.

Par. (1). Pub. L. 101-476, §901(b)(162), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers.”

Par. (2)(C). Pub. L. 101-476, §901(b)(163), substituted “the developmental needs of an infant or toddler with a disability” for “a handicapped infant’s or toddler’s developmental needs.”

Par. (2)(E)(xi). Pub. L. 101-476, §801, added cl. (xi).
1988—Par. (1)(A). Pub. L. 100-630, §108(b)(1), substituted “cognitive” for “Cognitive.”

Par. (2). Pub. L. 100-630, §108(b)(2), (3), substituted “The term ‘early intervention services’” for “‘Early intervention services’”, and in subpar. (C)(iv) substituted “psychosocial” for “psycho-social”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 12 of Pub. L. 102-119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102-119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087ii of this title; title 10 section 2164.

§ 1473. General authority

The Secretary shall, in accordance with this subchapter, make grants to States (from their allocations under section 1484 of this title) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(Pub. L. 91-230, title VI, §673, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 101-476, title IX, §901(b)(164), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

1990—Pub. L. 101-476, as amended by Pub. L. 102-119, substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 1475, 1476, 1478, 1479, 1481, 1482 of this title.

§ 1474. General eligibility

In order to be eligible for a grant under section 1473 of this title for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 1478 of this title) that the State has established a State Interagency Coordinating Council which meets the requirements of section 1482 of this title.

(Pub. L. 91-230, title VI, §674, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1147.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1478 of this title.

§ 1475. Continuing eligibility

(a) First two years

In order to be eligible for a grant under section 1473 of this title for the first or second year of a State’s participation under this subchapter, a State shall include in its application under section 1478 of this title for that year an assurance that funds received under section 1473 of this title shall be used to assist the State to plan, develop, and implement the statewide system required by section 1476 of this title.

(b) Third and fourth year

(1) In order to be eligible for a grant under section 1473 of this title for the third or fourth year of a State's participation under this subchapter, a State shall include in its application under section 1478 of this title for that year information and assurances demonstrating to the satisfaction of the Secretary that—

(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 1476 of this title or obtained a waiver from the Secretary under paragraph (2),

(B) funds shall be used to plan, develop, and implement the statewide system required by section 1476 of this title, and

(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 1473 of this title, except that in order to comply with section 1476(b)(4) of this title, a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 1473 of this title during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

(A) that the State has made a good faith effort to adopt such a policy,

(B) the reasons why it was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

(c) Fifth and succeeding years

In order to be eligible for a grant under section 1473 of this title for a fifth and any succeeding year of a State's participation under this subchapter, a State shall include in its application under section 1478 of this title for that year information and assurances demonstrating to the satisfaction of the Secretary that the State has in effect the statewide system required by section 1476 of this title and a description of services to be provided under section 1476(b)(2) of this title.

(d) Exception

Notwithstanding subsections (a) and (b) of this section, a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to children with disabilities from birth through age 2, inclusive, shall be eligible for a grant under section 1473 of this title for the first through fourth years of a State's participation under this subchapter.

(e) Differential funding for fourth or fifth year**(1) In general**

Notwithstanding any other provision of this subchapter, a State shall be eligible for a grant under section 1473 of this title for fiscal years 1990, 1991, or 1992 if—

(A) the State satisfies the eligibility criteria described in subsection (b)(1) of this section pertaining to the State's third or fourth year of participation under this subchapter; and

(B) the Governor, on behalf of the State, submits, by a date that the Secretary may establish for each such year, a request for extended participation, including—

(i) information demonstrating to the Secretary's satisfaction that the State is experiencing significant hardships in meeting the requirements of this section for the fourth or fifth year of participation; and

(ii) a plan, including timelines, for meeting the eligibility criteria described in subsections (b)(1) and (c) of this section for the fourth, fifth, or succeeding years of participation.

(2) Approval of request**(A) First year**

The Secretary shall approve a State's request for a first year of extended participation under this subsection if the State meets the requirements of paragraph (1).

(B) Second year

The Secretary shall approve a State's request for a second year of extended participation under this subsection if the State—

(i) meets the requirements of paragraph (1); and

(ii) demonstrates to the Secretary's satisfaction that the State has made reasonable progress in implementing the plan described in paragraph (1)(B)(ii).

(3) Duration

The Secretary may not approve more than two requests from the same State for extended participation under this subsection.

(4) Payment**(A) Fiscal year 1990**

Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1990 shall receive a payment under this subchapter in an amount equal to such State's payment under this subchapter for fiscal year 1989.

(B) Fiscal year 1991 or 1992

Except as provided in subparagraph (C) and notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this subchapter for such fiscal years in an amount equal to the payment such State would have received under this subchapter for fiscal year 1990 if such State had met the criteria for the fourth year of participation described in subsection (b)(1) of this section.

(C) Minimum payment for fiscal year 1991 or 1992 for certain States

Notwithstanding any other provision of law, each State qualifying for extended par-

ticipation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this subchapter of not less than \$500,000. For purposes of the preceding sentence, the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) Reallotment

(A) Fiscal year 1990

The amount by which the allotment computed under section 1484 of this title for any State for fiscal year 1990 exceeds the amount that such State may be allotted under paragraph (4)(A) of this subsection (and, notwithstanding section 1484(d) of this title, any fiscal year 1990 funds allotted to any State that such State elects not to receive) shall be reallotted, notwithstanding the percentage limitations set forth in sections¹ 1484(a) and (b) of this title, among those States satisfying the eligibility criteria of subsection (b)(1) of this section for the fourth year of participation that have submitted an application by a date that the Secretary may establish in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year.

(B) Fiscal year 1991 or 1992

The amount by which a State's allotment computed under section 1484 of this title for any State for fiscal years 1991 or 1992 exceeds the amount that such State may be allotted for such fiscal year under paragraph (4)(B) of this subsection shall be reallotted, notwithstanding the percentage limitations set forth in section 1484(a) and (b) of this title—

(i) first, among those States satisfying the eligibility criteria of subsection (c) of this section for the fifth year of participation that have submitted applications by a date that the Secretary may establish for each such year in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year, except that no such State, by operation of this clause, shall receive an increase of more than 100 percent over the amount such State would have otherwise received under section 1484 of this title for the previous fiscal year;

(ii) second, if funds remain, among those States that have—

(I) satisfied the eligibility criteria of subsection (b)(1) of this section for the fourth year of participation;

(II) qualified for extended participation under this subsection; and

(III) not received a reallotment payment under clause (i),

in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year, except that no State, by operation of this clause, shall receive a reallotment payment that is larger than the payment such State would otherwise have received under section 1484 of this title for such year; and

(iii) third, if funds remain, among those States satisfying the eligibility criteria of subsection (c) of this section for the fifth year of participation that did not receive a reallotment payment under clause (ii) in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 1484 of this title as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 1484 of this title as modified by this subsection in such fiscal year.

(6) Definitions

For the purpose of this subsection, the term “State”, except as provided in paragraph (4)(C), means—

(A) each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

(B) each of the jurisdictions listed in section 1484(a) of this title; and

(C) the Department of the Interior.

(Pub. L. 91-230, title VI, § 675, as added Pub. L. 99-457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 100-630, title I, § 108(c), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101-476, title IX, § 901(b)(165), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102-52, § 10, June 6, 1991, 105 Stat. 263; Pub. L. 102-119, §§ 19(c), 25(b), Oct. 7, 1991, 105 Stat. 601, 607.)

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Subsec. (e). Pub. L. 102-52 added subsec. (e).

Subsec. (e)(4)(B). Pub. L. 102-119, § 19(c)(1)(A), inserted “under this subchapter” after “receive a payment”.

Subsec. (e)(4)(C). Pub. L. 102-119, § 19(c)(1)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “(C) MINIMUM.—Beginning in fiscal year 1991, the payment under this subchapter to each of the 50 States, the District of Columbia, and Puerto Rico shall not be less than \$500,000.”

Subsec. (e)(6). Pub. L. 102-119, § 19(c)(2)(A), inserted “, except as provided in paragraph (4)(C),” before “means”.

Subsec. (e)(6)(A). Pub. L. 102-119, § 19(c)(2)(B), inserted “the Commonwealth of” before “Puerto Rico”.

1990—Subsec. (d). Pub. L. 101-476, as amended by Pub. L. 102-119, § 25(b), substituted “children with disabilities” for “handicapped children”.

1988—Subsec. (a). Pub. L. 100-630, § 108(c)(1), substituted “an assurance” for “assurances”.

Subsec. (b)(1)(C). Pub. L. 100-630, § 108(c)(2), substituted “in order to comply with” for “with respect to”.

¹ So in original. Probably should be “section”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1478 of this title.

§ 1476. Requirements for statewide system**(a) In general**

A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities on reservations, shall include the minimum components under subsection (b) of this section.

(b) Minimum components

The statewide system required by subsection (a) of this section shall include, at a minimum—

(1) a definition of the term “developmentally delayed” that will be used by the State in carrying out programs under this subchapter,

(2) timetables for ensuring that appropriate early intervention services will be available to all infants and toddlers with disabilities in the State, including Indian infants and toddlers with disabilities on reservations, before the beginning of the fifth year of a State’s participation under this subchapter,

(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with a disability in the State and the needs of the families to appropriately assist in the development of the infant or toddler with a disability,

(4) for each infant and toddler with a disability in the State, an individualized family service plan in accordance with section 1477 of this title, including service coordination services in accordance with such service plan,

(5) a comprehensive child find system, consistent with subchapter II of this chapter, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources,

(6) a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services to parents of infants with disabilities,

(7) a central directory which includes early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State,

(8) a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the

State, that is consistent with the comprehensive system of personnel development described in section 1413(a)(3) of this title and that may include—

(A) implementing innovative strategies and activities for the recruitment and retention of early intervention service providers,

(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this subchapter,

(C) training personnel to work in rural areas, and

(D) training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program under this subchapter to a preschool program under section 1419 of this title.

(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration and supervision of programs and activities receiving assistance under section 1473 of this title, and the monitoring of programs and activities used by the State to carry out this subchapter, whether or not such programs or activities are receiving assistance made available under section 1473 of this title, to ensure that the State complies with this subchapter,

(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

(C) the assignment of financial responsibility in accordance with section 1478(a)(2) of this title to the appropriate agencies,

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

(E) the resolution of intra- and inter-agency disputes, and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination,

(10) a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this subchapter, including the contents of the application used and the conditions of the contract or other arrangements,

(11) a procedure for securing timely reimbursement of funds used under this subchapter in accordance with section 1481(a) of this title,

(12) procedural safeguards with respect to programs under this subchapter as required by section 1480 of this title,

(13) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, and

(14) a system for compiling data on the numbers of infants and toddlers with disabilities and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

(Pub. L. 91-230, title VI, § 676, as added Pub. L. 99-457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1148; amended Pub. L. 100-630, title I, § 108(d), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101-476, title VIII, § 802, title IX, § 901(b)(166)–(173), Oct. 30, 1990, 104 Stat. 1141, 1150; Pub. L. 102-119, §§ 13, 19(a)(2), 25(a)(17), (b), Oct. 7, 1991, 105 Stat. 596, 601, 606, 607.)

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476, § 901(b). See 1990 Amendment note below.

Subsec. (a). Pub. L. 102-119, § 19(a)(2)(A), inserted “, including Indian infants and toddlers with disabilities on reservations,” after “families”.

Subsec. (b)(2). Pub. L. 102-119, § 19(a)(2)(B), inserted “, including Indian infants and toddlers with disabilities on reservations,” after “State”.

Subsec. (b)(4). Pub. L. 102-119, § 25(a)(17)(A), substituted “infant and toddler with a disability” for “handicapped infant and toddler”.

Pub. L. 102-119, § 13(1), substituted “service coordination” for “case management”.

Subsec. (b)(6). Pub. L. 102-119, § 25(a)(17)(B), struck out “as required under this paragraph” before “to parents of infants”.

Subsec. (b)(8). Pub. L. 102-119, § 13(2), amended par. (8) generally. Prior to amendment, par. (8) read as follows: “a comprehensive system of personnel development, including training of primary referral sources respecting the basic components of early intervention services available in the State.”

Subsec. (b)(9)(A). Pub. L. 102-119, § 13(3)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the general administration, supervision, and monitoring of programs and activities receiving assistance under section 1473 of this title to ensure compliance with this subchapter.”

Subsec. (b)(9)(C). Pub. L. 102-119, § 13(3)(B), inserted “in accordance with section 1478(a)(2) of this title” after “responsibility” and substituted “agencies,” for “agency.”

1990—Pub. L. 101-476, § 901(b), was amended in its directory language by Pub. L. 102-119, § 25(b), requiring no change in text.

Subsecs. (a), (b)(2). Pub. L. 101-476, § 901(b)(166), (167), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

Subsec. (b)(3). Pub. L. 101-476, § 901(b)(168), (169), substituted “infant and toddler with a disability” and “in-

fant or toddler with a disability” for “handicapped infant and toddler” and “handicapped infant or toddler”, respectively.

Subsec. (b)(4). Pub. L. 101-476, § 901(b)(170), which directed the substitution of “infants and toddlers with disabilities” for “handicapped infants and toddlers”, could not be executed because the phrase “handicapped infants and toddlers” did not appear in text.

Subsec. (b)(6). Pub. L. 101-476, § 901(b)(171), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

Pub. L. 101-476, § 802(1), inserted before comma at end “, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services as required under this paragraph to parents of infants with disabilities”.

Subsec. (b)(8). Pub. L. 101-476, § 802(2), inserted before comma at end “, including training of primary referral sources respecting the basic components of early intervention services available in the State”.

Subsec. (b)(9)(D), (14). Pub. L. 101-476, § 901(b)(172), (173), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

1988—Subsec. (b)(5). Pub. L. 100-630, § 108(d)(1), made technical amendment to reference to subchapter II of this chapter resulting in no change in text and substituted “for participation by” for “for the participation by”.

Subsec. (b)(12). Pub. L. 100-630, § 108(d)(2), struck out “and” at end.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 13 of Pub. L. 102-119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102-119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087ee, 1413, 1432, 1472, 1475, 1479, 1480, 1482, 1483 of this title.

§ 1477. Individualized family service plan

(a) Assessment and program development

Each infant or toddler with a disability and the infant's or toddler's family shall receive—

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs,

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability, and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d) of this section.

(b) Periodic review

The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) Promptness after assessment

The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) of this section is completed. With the parent's consent, early intervention services may commence prior to the completion of such assessment.

(d) Content of plan

The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on acceptable objective criteria,

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability,

(3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary,

(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and the method of delivering services,

(5) a statement of the natural environments in which early intervention services shall appropriately be provided,

(6) the projected dates for initiation of services and the anticipated duration of such services,

(7) the name of the case manager (hereafter in this subchapter referred to as the "service coordinator") from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this subchapter) who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

(8) the steps to be taken supporting the transition of the toddler with a disability to services provided under subchapter II of this chapter to the extent such services are considered appropriate.

(e) Parental consent

The contents of the individualized family service plan shall be fully explained to the parents or guardian and informed written consent from such parents or guardian shall be obtained prior to the provision of early intervention services described in such plan. If such parents or guardian do not provide such consent with respect to a particular early intervention service, then the early intervention services to which such consent is obtained shall be provided.

(Pub. L. 91-230, title VI, §677, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1149; amended Pub. L. 100-630, title I, §108(f), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101-476, title IX, §901(b)(174)-(176), Oct. 30, 1990, 104 Stat. 1150;

Pub. L. 102-119, §§14, 25(b), Oct. 7, 1991, 105 Stat. 597, 607.)

AMENDMENTS

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102-119, §14(1)(B), (C), added par. (1) and struck out former par. (1) which read as follows: "a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and".

Subsec. (a)(2), (3). Pub. L. 102-119, §14(1)(A), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 102-119, §14(2)(A), substituted "communication development, social or emotional development, and adaptive development," for "language and speech development, psychosocial development, and self-help skills,".

Subsec. (d)(2). Pub. L. 102-119, §14(2)(B), substituted "resources, priorities, and concerns" for "strengths and needs".

Subsec. (d)(5), (6). Pub. L. 102-119, §14(2)(C), added par. (5) and redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (d)(7). Pub. L. 102-119, §14(2)(C)(i), (D), redesignated par. (6) as (7) and inserted "hereafter in this subchapter referred to as the 'service coordinator'" and "(or who is otherwise qualified to carry out all applicable responsibilities under this subchapter)". Former par. (7) redesignated (8).

Subsec. (d)(8). Pub. L. 102-119, §14(2)(C)(i), redesignated par. (7) as (8).

Subsec. (e). Pub. L. 102-119, §14(3), added subsec. (e). 1990—Pub. L. 101-476, as amended by Pub. L. 102-119, §25(b), substituted "infant or toddler with a disability" for "handicapped infant or toddler" in subsecs. (a) and (d)(2) and "toddler with a disability" for "handicapped toddler" in subsec. (d)(7).

1988—Subsec. (a). Pub. L. 100-630, §108(f)(1), substituted "infant's" for second reference to "infant".

Subsec. (b). Pub. L. 100-630, §108(f)(2), substituted "6-month intervals" for "6 month-intervals" and "or toddler" for "and toddler".

Subsec. (d)(1). Pub. L. 100-630, §108(f)(3), substituted "psychosocial" for "psycho-social".

Subsec. (d)(3). Pub. L. 100-630, §108(f)(4), substituted "or toddler" for "and toddler" and "is being" for "are being".

Subsec. (d)(6). Pub. L. 100-630, §108(f)(5), substituted "or toddler's" for "and toddler's".

Subsec. (d)(7). Pub. L. 100-630, §108(f)(6), made technical amendment to reference to subchapter II resulting in no change in text.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 14 of Pub. L. 102-119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102-119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 1413, 1414, 1472, 1476 of this title; title 29 section 2211.

§ 1478. State application and assurances**(a) Application**

Any State desiring to receive a grant under section 1473 of this title for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may rea-

sonably require by regulation. Such an application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 1473 of this title,

(2) a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies,

(3) information demonstrating eligibility of the State under section 1474 of this title,

(4) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 1475 of this title,

(5)(A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

(6) a description of the uses for which funds will be expended in accordance with this subchapter and, for the fifth and succeeding fiscal years, a description of the services to be provided,

(7) a description of the procedure used to ensure an equitable distribution of resources made available under this subchapter among all geographic areas within the State,

(8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this subchapter who are eligible for participation in preschool programs under subchapter II of this chapter, including a description of how the families will be included in the transitional plans and how the lead agency under this subchapter will notify the appropriate local educational agency or intermediate educational unit in which the child resides and convene, with the approval of the family, a conference between the lead agency, the family, and such agency or unit at least 90 days before such child is eligible for the preschool program under subchapter II of this chapter in accordance with State law, and to review the child's program options, for the period commencing on the day a child turns 3 running through the remainder of the school year, and to establish a transition plan, and

(9) such other information and assurances as the Secretary may reasonably require by regulation.

(b) Statement of assurances

Any State desiring to receive a grant under section 1473 of this title shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

(1) assure that funds paid to the State under section 1473 of this title will be expended in accordance with this subchapter,

(2) contain assurances that the State will comply with the requirements of section 1481 of this title,

(3) provide satisfactory assurance that the control of funds provided under section 1473 of this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer such funds and property,

(4) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this subchapter, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter,

(5) provide satisfactory assurance that Federal funds made available under section 1473 of this title (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant such State and local funds,

(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 1473 of this title to the State,

(7) beginning in fiscal year 1992, provide satisfactory assurance that policies and practices have been adopted to ensure meaningful involvement of traditionally underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this subchapter and to ensure that such families have access to culturally competent services within their local areas, and

(8) such other information and assurances as the Secretary may reasonably require by regulation.

(c) Approval of application and assurances required

No State may receive a grant under section 1473 of this title unless the Secretary has approved the application and statement of assurances of that State. The Secretary shall not disapprove such an application or statement of assurances unless the Secretary determines, after notice and opportunity for a hearing, that the application or statement of assurances fails to comply with the requirements of this section.

(Pub. L. 91-230, title VI, § 678, as added Pub. L. 99-457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1150; amended Pub. L. 100-630, title I, § 108(g), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101-476, title IX, § 901(b)(177), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102-119, §§ 15, 25(b), Oct. 7, 1991, 105 Stat. 597, 607.)

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Subsec. (a)(2) to (6). Pub. L. 102-119, § 15(1)(A)(ii), (iii), added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 102-119, § 15(1)(A)(ii), (B)(i), redesignated par. (6) as (7) and struck out "and" after "within the State,". Former par. (7) redesignated (9).

Subsec. (a)(8). Pub. L. 102-119, §15(1)(B)(ii), added par. (8).

Subsec. (a)(9). Pub. L. 102-119, §15(1)(A)(i), redesignated par. (7) as (9).

Subsec. (b)(7), (8). Pub. L. 102-119, §15(2), added par. (7) and redesignated former par. (7) as (8).

1990—Subsec. (b)(5). Pub. L. 101-476, as amended by Pub. L. 102-119, §25(b), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

1988—Subsec. (a)(3). Pub. L. 100-630, §108(g)(1), struck out “and” at end.

Subsec. (a)(5). Pub. L. 100-630, §108(g)(2), substituted “and, for the fifth and succeeding fiscal years, a” for “and for the fifth and succeeding fiscal years a”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 15 of Pub. L. 102-119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102-119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 1475, 1476, 1482 of this title.

§ 1479. Uses of funds

In addition to using funds provided under section 1473 of this title to plan, develop, and implement the statewide system required by section 1476 of this title, a State may use such funds—

(1) for direct services for infants and toddlers with disabilities and their families that are not otherwise provided from other public or private sources,

(2) to expand and improve on services for infants and toddlers with disabilities and their families that are otherwise available, and

(3) to provide a free appropriate public education, in accordance with subchapter II of this chapter, to children with disabilities from their third birthday to the beginning of the following school year.

(Pub. L. 91-230, title VI, §679, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1151; amended Pub. L. 100-630, title I, §108(h), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101-476, title IX, §901(b)(178), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102-119, §§16, 25(b), Oct. 7, 1991, 105 Stat. 598, 607.)

AMENDMENTS

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Par. (3). Pub. L. 102-119, §16, added par. (3).

1990—Pub. L. 101-476, as amended by Pub. L. 102-119, §25(b), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers” in pars. (1) and (2).

1988—Pub. L. 100-630 inserted “and their families” after “toddlers” in pars. (1) and (2).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

§ 1480. Procedural safeguards

The procedural safeguards required to be included in a statewide system under section

1476(b)(12) of this title shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of parents or guardians to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents or guardian to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this subchapter in accordance with State law without jeopardizing other early intervention services under this subchapter.

(4) The opportunity for parents or a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler with a disability whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

(6) Written prior notice to the parents or guardian of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

(7) Procedures designed to assure that the notice required by paragraph (6) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(8) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

(Pub. L. 91-230, title VI, §680, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1152; amended Pub. L. 100-630, title I, §108(i), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101-476, title IX, §901(b)(179), (180), Oct. 30, 1990, 104 Stat. 1150;

Pub. L. 102-119, §§17, 25(b), Oct. 7, 1991, 105 Stat. 598, 607.)

AMENDMENTS

1991—Pub. L. 102-119, §25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Par. (2). Pub. L. 102-119, §17(1), inserted before period at end “, including the right of parents or guardians to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law”.

Pars. (3) to (6). Pub. L. 102-119, §17(2), (3), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively. Former par. (6) redesignated (7).

Par. (7). Pub. L. 102-119, §17(2), (4), redesignated par. (6) as (7) and substituted “paragraph (6)” for “paragraph (5)”. Former par. (7) redesignated (8).

Par. (8). Pub. L. 102-119, §17(2), redesignated par. (7) as (8).

1990—Pars. (4), (5). Pub. L. 101-476, as amended by Pub. L. 102-119, §25(b), substituted “infant or toddler with a disability” for “handicapped infant or toddler” in par. (4) and in two places in par. (5).

1988—Par. (3). Pub. L. 100-630, §108(i)(1), substituted “or a guardian” for “and a guardian”.

Par. (4). Pub. L. 100-630, §108(i)(2), substituted “or toddler” for “and toddlers”.

Par. (7). Pub. L. 100-630, §108(i)(3), substituted “or, if applying for initial services,” for “or if applying for initial services”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 17 of Pub. L. 102-119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102-119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1476 of this title.

§ 1481. Payor of last resort

(a) Nonsubstitution

Funds provided under section 1473 of this title may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this subchapter, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 1473 of this title may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

(b) Reduction of other benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act [42 U.S.C. 701 et seq.] (relating to maternal and child health) or title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (relating to medicaid for infants or toddlers with disabilities) within the State.

(Pub. L. 91-230, title VI, §681, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1152;

amended Pub. L. 100-630, title I, §108(j), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101-476, title IX, §901(b)(181), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Social Security Act are classified generally to subchapters V (§701 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

1990—Subsec. (b). Pub. L. 101-476, as amended by Pub. L. 102-119, substituted “infants or toddlers with disabilities” for “handicapped infants and toddlers”.

1988—Subsec. (a). Pub. L. 100-630 substituted “a delay” for “the delay”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1476, 1478 of this title.

§ 1482. State Interagency Coordinating Council

(a) Establishment

(1) Any State which desires to receive financial assistance under section 1473 of this title shall establish a State Interagency Coordinating Council composed of at least 15 members but not more than 25 members, unless the State provides sufficient justification for a greater number of members in the application submitted pursuant to section 1478 of this title.

(2) The Council shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

(3) The Governor shall designate a member of the Council to serve as the chairperson of the Council, or shall require the Council to so designate such a member. Any member of the Council who is a representative of the lead agency designated under section 1476(b)(9) of this title may not serve as the chairperson of the Council.

(b) Composition

(1) The Council shall be composed as follows:

(A) At least 20 percent of the members shall be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) At least 20 percent of the members shall be public or private providers of early intervention services.

(C) At least one member shall be from the State legislature.

(D) At least one member shall be involved in personnel preparation.

(E) At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) At least one member shall be from the agency responsible for the State governance of insurance, especially in the area of health insurance.

(2) The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA operated or funded school, from the Indian Health Service or the tribe/tribal council.

(c) Meetings

The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Management authority

Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this subchapter to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this subchapter.

(e) Functions of Council

(1) The Council shall—

(A) advise and assist the lead agency designated or established under section 1476(b)(9) of this title in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

(B) advise and assist the lead agency in the preparation of applications and amendments thereto,

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under subchapter II of this chapter, to the extent such services are appropriate, and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) The Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to 5, inclusive.

(f) Conflict of interest

No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(g) Use of existing Councils

To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 1473 of this title, such State shall establish a council that complies in full with this section.

(Pub. L. 91-230, title VI, § 682, as added Pub. L. 99-457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1153; amended Pub. L. 100-630, title I, § 108(k), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101-476, title IX, § 901(b)(182), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102-119, §§ 18, 25(a)(18), (b), Oct. 7, 1991, 105 Stat. 599, 606, 607.)

AMENDMENTS

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102-119, § 18(1)(A), substituted “at least 15 members but not more than 25 members, unless the State provides sufficient justification for a greater number of members in the application submitted pursuant to section 1478 of this title” for “15 members”.

Subsec. (a)(2). Pub. L. 102-119, § 18(1)(B), struck out “and the chairperson of the Council” before “shall be appointed”.

Subsec. (a)(3). Pub. L. 102-119, § 18(1)(C), added par. (3).

Subsec. (b). Pub. L. 102-119, § 18(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Council shall be composed of—

“(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

“(2) at least 3 public or private providers of early intervention services,

“(3) at least one representative from the State legislature,

“(4) at least one person involved in personnel preparation,

“(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families, and

“(6) others selected by the Governor.”

Subsec. (d). Pub. L. 102-119, § 18(3), substituted “to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain” for “to hire staff, and obtain”.

Subsec. (e). Pub. L. 102-119, § 18(4), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A), (B), and (D), respectively, of par. (1), and added subpar. (C) of par. (1) and par. (2).

Subsec. (e)(1)(D). Pub. L. 102-119, § 25(a)(18), substituted “infants and toddlers” for “infants or toddlers”.

1990—Subsec. (e)(3). Pub. L. 101-476, as amended by Pub. L. 102-119, §25(b), substituted “infants or toddlers with disabilities” for “handicapped infants and toddlers”.

1988—Subsec. (b)(4). Pub. L. 100-630, §108(k)(1), struck out “and” at end.

Subsec. (b)(5). Pub. L. 100-630, §108(k)(2), substituted “families, and” for “families and others selected by the Governor.”

Subsec. (b)(6). Pub. L. 100-630, §108(k)(3), added par. (6).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 18 of Pub. L. 102-119 effective July 1, 1992, except that each State has option to have amendment apply earlier than such date, see section 27(b) of Pub. L. 102-119, set out as a note under section 927 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1474 of this title; title 29 section 2212.

§ 1483. Federal administration

Sections 1416, 1417, and 1420 of this title shall, to the extent not inconsistent with this subchapter, apply to the program authorized by this subchapter, except that—

(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 1476(b)(9) of this title,

(2) any reference to the education of children with disabilities and the education of all children with disabilities and the provision of free public education to all children with disabilities shall be deemed to be a reference to the provision of services to infants and toddlers with disabilities in accordance with this subchapter, and

(3) any reference to local educational agencies and intermediate educational agencies shall be deemed to be a reference to local service providers under this subchapter.

(Pub. L. 91-230, title VI, §683, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101-476, title IX, §901(b)(183), (184), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102-119, §25(b), Oct. 7, 1991, 105 Stat. 607.)

AMENDMENTS

1991—Pub. L. 102-119 amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

1990—Par. (2). Pub. L. 101-476, as amended by Pub. L. 102-119, substituted “children with disabilities” for “handicapped children” in three places and “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

§ 1484. Allocation of funds

(a) Territories and insular possessions

From the sums appropriated to carry out this subchapter for any fiscal year, the Secretary

may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

(b) Payments to Secretary of the Interior for assistance to Indians

(1) The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 450b of title 25) or consortium of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

(2) The Secretary of the Interior shall distribute the total amount of the 1.25 percent under paragraph (1) in the following manner:

(A) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for BIA operated or funded schools serving such reservation generated under the formula established under section 2008¹ of title 25, divided by the total number of such students in all BIA operated or funded schools.

(B) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based on the number of infants and toddlers residing on the reservation as determined annually divided by the total of such children served by all tribes or tribal organizations.

(3) To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as are needed to determine the amounts to be allocated under paragraph (2).

(4) The funds received by a tribe or tribal organization shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children aged 0-2, inclusive, and for parent training. Such funds may also be used to provide early intervention services in accordance with this subchapter. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe and tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) To be eligible to receive a grant pursuant to paragraph (2), the tribe or tribal organization shall make a biennial report to the Secretary of the Interior of activities undertaken under this

¹ See References in Text note below.

subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 1411(f)(3)(D) of this title. The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) None of the funds under this subsection can be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c) States

(1) Except as provided in paragraphs (3), (4), and (5) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b) of this section, the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(2) For fiscal year 1995 only, the Secretary shall allot \$34,000,000 of the remaining funds described in paragraph (1) among the States in proportion to their relative numbers of infants and toddlers with disabilities who—

(A) are counted on December 1, 1994; and

(B) would have been eligible to be counted under section 1221(c)(1) of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding October 20, 1994).

(3) Except as provided in paragraphs (4) and (5), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1), excluding any amounts allotted under paragraph (2); or

(B) \$500,000.

(4)(A) Except as provided in paragraph (5), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

(i) this subchapter; and

(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding October 20, 1994) for children with disabilities from birth through age 2.

(B) If, for fiscal year 1998 or 1999, the number of infants and toddlers in any State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for that State shall be reduced by the same percentage by which the number of those infants and toddlers so declined.

(5)(A) If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all States are eligible

to receive under this subsection for such year, the Secretary shall ratably reduce the allocations to such States for such year.

(B) If additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

(6) For the purpose of paragraph (1)—

(A) the terms “infants” and “toddlers” mean children from birth to age 2, inclusive, and

(B) the term “State” does not include the jurisdictions described in subsection (a) of this section.

(d) Election by State not to receive allotment

If any State elects not to receive its allotment under subsection (c)(1) of this section, the Secretary shall reallocate, among the remaining States, amounts from such State in accordance with such subsection.

(Pub. L. 91-230, title VI, § 684, as added Pub. L. 99-457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101-476, title IX, § 901(b)(185), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102-119, § 19(a)(1), (b), 25(b), Oct. 7, 1991, 105 Stat. 600, 601, 607; Pub. L. 103-382, title III, § 313(a), Oct. 20, 1994, 108 Stat. 3935.)

REFERENCES IN TEXT

Section 2008 of title 25, referred to in subsec. (b)(2)(A), was in the original a reference to section 1128 of the Education Amendments of 1978, Pub. L. 95-561. Section 1128 of Pub. L. 95-561 was omitted in the general amendment of chapter 22 (§ 2001 et seq.) of Title 25, Indians, by Pub. L. 103-382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103-382 enacted a new section 1127 of Pub. L. 95-561, relating to allotment formulas, and a new section 1128, relating to administrative cost grants, which are classified to sections 2007 and 2008, respectively, of Title 25.

Section 1221 and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such section and subpart were in existence on the day preceding October 20, 1994), referred to in subsec. (c)(2)(B), (4)(A)(ii), mean section 1221 and subpart 2 of part D of chapter 1 of title I of Pub. L. 89-10, as added by Pub. L. 100-297, title I, § 1001, Apr. 28, 1988, 102 Stat. 179, as amended, which were classified generally to section 2791 and subpart 2 (§ 2791 et seq.) of part D of div. I of subchapter I of chapter 47 of this title prior to being omitted in the general amendment of Pub. L. 89-10 by Pub. L. 103-382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103-382, § 313(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “For each of the fiscal years 1987 through 1994 from the funds remaining after the reservation and payments under subsections (a) and (b) of this section, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder, or \$500,000, whichever is greater.”

Subsec. (c)(2) to (6). Pub. L. 103-382, § 313(a)(1), (3), added pars. (2) to (5) and redesignated former par. (2) as (6).

1991—Pub. L. 102-119, § 25(b), amended directory language of Pub. L. 101-476. See 1990 Amendment note below.

Subsec. (b). Pub. L. 102-119, § 19(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to infants and toddlers with disabilities and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this subchapter for that fiscal year.

“(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which meets the requirements of section 1478 of this title and which is approved by the Secretary. Section 1416 of this title shall apply to any such application.”

Subsec. (c)(1). Pub. L. 102-119, §19(b), substituted “1994” for “1991” and inserted before period at end “, or \$500,000, whichever is greater”.

1990—Subsec. (b)(1). Pub. L. 101-476, as amended by Pub. L. 102-119, §25(b), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 313(b) of Pub. L. 103-382 provided that: “Subsection (a) [amending this section] and the amendments made by subsection (a) shall take effect on October 1, 1994.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 1087ee of this title.

STUDY OF ALTERNATIVE FORMULAE FOR ALLOCATION OF FUNDS

Section 22 of Pub. L. 102-119 directed Secretary of Education to undertake a study to identify alternative formulae for allocating funds under part H of the Individuals with Disabilities Education Act [20 U.S.C. 1471 et seq.] and transmit the study and a report on such study to Senate Committee on Labor and Human Resources and House Committee on Education and Labor by Mar. 1, 1993.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1473, 1475 of this title.

§ 1484a. Federal Interagency Coordinating Council

(a) Establishment and purpose

(1) In general

The Secretary shall establish a Federal Interagency Coordinating Council in order to—

(A) minimize duplication of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families, and preschool services for children with disabilities, across Federal, State, and local agencies;

(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;

(C) coordinate the provision of Federal technical assistance and support activities to States;

(D) identify gaps in Federal agency programs and services; and

(E) identify barriers to Federal interagency cooperation.

(2) Appointments

The council established under paragraph (1) (hereafter in this section referred to as the

“Council”) and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that such member represents.

(b) Composition

The Council shall be composed of—

(1) a representative of the Office of Special Education Programs;

(2) a representative of the National Institute on Disability and Rehabilitation Research;

(3) a representative of the Maternal and Child Health Services Block Grant Program;

(4) a representative of programs assisted under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.];

(5) a representative of the Health Care Financing Administration;

(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

(7) a representative of the Social Security Administration;

(8) a representative of the special supplemental nutrition program for women, infants, and children of the Department of Agriculture;

(9) a representative of the National Institute of Mental Health;

(10) a representative of the National Institute of Child Health and Human Development;

(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

(12) a representative of the Indian Health Service;

(13) a representative of the Surgeon General;

(14) a representative of the Department of Defense;

(15) a representative of the Administration for Children and Families;

(16) a representative of the Substance Abuse and Mental Health Services Administration;

(17) a representative of the Pediatric Aids Health Care Demonstration Program in the Public Health Service;

(18) at least 3 parents of children with disabilities age 12 or under, of whom at least one must have a child with a disability under the age of 6;

(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of which must be a representative of a State educational agency and the other a representative of a noneducational agency;

(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and toddlers with disabilities and their families and preschool children with disabilities; and

(21) other persons appointed by the Secretary.

(c) Meetings

The Council shall meet at least quarterly and in such places as the Council deems necessary.

The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Functions of Council

The Council shall—

(1) advise and assist the Secretary in the performance of the Secretary's responsibilities described in this subchapter;

(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

(3) identify strategies to address issues described in paragraph (2);

(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

(6) facilitate activities in support of States' interagency coordination efforts.

(e) Conflict of interest

No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

(Pub. L. 91-230, title VI, §685, as added Pub. L. 102-119, §21(2), Oct. 7, 1991, 105 Stat. 602; amended Pub. L. 102-321, title I, §161, July 10, 1992, 106 Stat. 375; Pub. L. 103-448, title II, §204(w)(2)(B), Nov. 2, 1994, 108 Stat. 4746.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (b)(4), is title I of Pub. L. 88-164, as added by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§6000 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 685 of Pub. L. 91-230, was renumbered section 686 of Pub. L. 91-230 and is classified to section 1485 of this title.

AMENDMENTS

1994—Subsec. (b)(8). Pub. L. 103-448 substituted “special supplemental nutrition program for women, infants, and children” for “Special Supplemental Food Program for Women, Infants and Children”.

1992—Subsec. (b)(16). Pub. L. 102-321 substituted “Substance Abuse and Mental Health Services Administration” for “Alcohol, Drug Abuse and Mental Health Administration”.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102-531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-321 effective Oct. 1, 1992, see section 801(c) of Pub. L. 102-321, set out as a note under section 236 of Title 42, The Public Health and Welfare.

§ 1485. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter \$220,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

(Pub. L. 91-230, title VI, §686, formerly §685, as added Pub. L. 99-457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1155; renumbered §686 and amended Pub. L. 102-119, §§20, 21(1), Oct. 7, 1991, 105 Stat. 602.)

AMENDMENTS

1991—Pub. L. 102-119, §20, amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to carry out this subchapter \$50,000,000 for fiscal year 1987, \$75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.”

STUDY OF SERVICES; COORDINATION OF ACTIONS

Section 101(b) of Pub. L. 99-457 directed Secretary of Education and Secretary of Health and Human Services to conduct a joint study of Federal funding sources and services available for early intervention programs and to act jointly to facilitate interagency coordination of Federal resources for such programs and to ensure that funding available to handicapped infants, toddlers, children, and youth from Federal programs, other than programs under this chapter was not being withdrawn or reduced and further directed Secretary of Education and Secretary of Health and Human Services to submit, not later than 18 months after Oct. 8, 1986, a joint report to Congress describing findings of study and describing joint action taken.

SUBCHAPTER IX—FAMILY SUPPORT

CODIFICATION

This subchapter is comprised of sections 701 to 716 of title VI of Pub. L. 91-230. Title VII of Pub. L. 91-230 also contains sections 701 to 709 (see Tables for classification to the Code).

§ 1491. Short title

This subchapter may be cited as the “Families of Children With Disabilities Support Act of 1994”.

(Pub. L. 91-230, title VI, §701, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3937.)

EFFECTIVE DATE

Subchapter effective July 1, 1995, see section 3(a)(3)(A) of Pub. L. 103-382, set out as an Effective Date of 1994 Amendment note under section 1411 of this title.

§ 1491a. Findings, purposes, and policy

(a) Findings

The Congress makes the following findings:

(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

(7) There are financial disincentives for families to care for their children with disabilities at home.

(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

(A) To support the family.

(B) To enable families of children with disabilities to nurture and enjoy their children at home.

(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

(b) Purposes

The purposes of this subchapter are as follows:

(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

(A) ensure the full participation, choice and control of families of children with disabilities in decisions related to the provision of such family support for their family;

(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 1491g of this title; and

(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

(2) To enhance the ability of the Federal Government to—

(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c) of this section;

(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

(C) conduct an evaluation of the program of grants to States; and

(D) provide funding for model demonstration and innovation projects.

(c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this subchapter shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

(1) Family support for families of children with disabilities must focus on the needs of the entire family.

(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural

sources of support, and help build connections to existing community resources and services.

(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

(9) Services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

(d) Rule of construction

Nothing in this subchapter shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

(Pub. L. 91-230, title VI, § 702, as added Pub. L. 103-382, title III, § 315, Oct. 20, 1994, 108 Stat. 3937.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491d, 1491g, 1491k, 1491m of this title.

§ 1491b. Definitions

For the purposes of this subchapter, only the following definitions shall apply:

(1) Child with a disability

The term “child with a disability” means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

(2) Council

The term “Council” means an existing Council, or a new Council, which is considered as a State Policy Council for Families of Children with Disabilities under section 1491f of this title.

(3) Culturally competent

The term “culturally competent” means services, supports, or other assistance that is conducted or provided in a manner that—

(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

(B) has the greatest likelihood of ensuring maximum participation of such individuals.

(4) Disability

The term “disability” means—

(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; and

(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

(5) Existing Council

The term “existing Council” means an entity or a committee of an entity that—

(A) is established by a State prior to the date on which the State submits an application for funding under this subchapter;

(B) has authority to advise the State with respect to family support for families of children with disabilities; and

(C) may have the authority to carry out other responsibilities and duties.

(6) Family

The term “family” means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

(A) A mother, father, brother, sister or any combination.

(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

(C) An adoptive parent.

(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

(7) Family-centered and family-directed

The term “family-centered and family-directed” means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families of children with disabilities in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

(C) is easily accessible to and usable by families of children with disabilities.

(8) Family satisfaction

The term “family satisfaction” means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

(9) Family support for families of children with disabilities

The term “family support for families of children with disabilities”—

(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

(i) support families in the efforts of such families to raise their children with disabilities in the family home;

(ii) strengthen the role of the family as primary caregiver;

(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

(B) includes—

(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

(10) Integration and inclusion

The term “integration and inclusion” with respect to children with disabilities and their families means—

(A) the use of the same community resources that are used by and available to other individuals and families;

(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

(C) having friendships and relationships with individuals and families of their own choosing.

(11) Lead entity

The term “lead entity” means an office or entity described in section 1491e of this title.

(12) New Council

The term “new Council” means a council that is established by a State, and considered as the State Policy Council for Families of Children with Disabilities, under section 1491f(a) of this title.

(13) Secretary

The term “Secretary” means the Secretary of Health and Human Services.

(14) Service coordination

The term “service coordination”—

(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

(B) includes—

(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

(ii) the coordination and monitoring of services provided to children with disabilities and their families;

(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

(15) Statewide system of family support

The term “statewide system of family support for families of children with disabilities” means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this subchapter that—

(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

(16) Systems change activities

The term “systems change activities” means efforts that result in laws, regulations, policies, practices, or organizational structures—

(A) that are family-centered and family-directed;

(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

(C) that otherwise accomplish the purposes of this subchapter.

(17) Unserved and underserved populations

The term “unserved and underserved populations” includes populations such as individuals from racial and ethnic minority backgrounds, economically disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

(Pub. L. 91-230, title VI, §703, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3939.)

§ 1491c. Grants to States

(a) In general

The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this subchapter, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 1491a of this title.

(b) Award period and grant limitation

No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

(c) Amount of grants

(1) Grants to States

(A) Federal matching share

From amounts appropriated under section 1491o(a) of this title, the Secretary shall pay to each State that has an application approved under section 1491d of this title, for each year of the grant period, an amount that is—

- (i) equal to 75 percent of the cost of the systems change activities to be carried out by the State; and
- (ii) not less than \$200,000 and not more than \$500,000.

(B) Non-Federal share

The non-Federal share of payments under this paragraph may be in cash or in kind fairly evaluated, including planned equipment or services.

(2) Grants to territories

From amounts appropriated under section 1491o(a) of this title for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 1491d of this title not more than \$100,000.

(3) Calculation of amounts

The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

- (A) The amounts available for making grants under this section.
- (B) The child population of the State or territory concerned.

(4) Definitions

As used in this subsection:

(A) State

The term “State” means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(B) Territory

The term “territory” means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau

(upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

(d) Priority for previously participating States

Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

- (1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and
- (2) is making significant progress in accordance with section 1491i of this title.

(e) Priorities for distribution

To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

- (1) is geographically equitable; and
- (2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

(Pub. L. 91-230, title VI, §704, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3943.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association between the United States and the Republic of Palau enters into force and effect, referred to in subsec. (c)(4)(B), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491e, 1491g, 1491i of this title.

§ 1491d. Application

A State that desires to receive a grant under this subchapter shall submit an application to the Secretary that contains the following information and assurances:

(1) Family-centered and family-directed approach

An assurance that the State will use funds made available under this subchapter to accomplish the purposes described in section 1491a of this title and the goals, objectives, and family-centered outcomes described in section 1491h(b) of this title by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

(2) Designation of the lead entity

Information identifying the lead entity, and evidence documenting the abilities of such entity.

(3) State policy Council for families of children with disabilities

An assurance of the following:

(A) The State has designated or established Council¹ that meets the criteria set forth in section 1491f of this title.

(B) The lead entity will seek and consider on a regular and ongoing basis advice from

¹ So in original. Probably should be preceded by “a”.

the Council regarding the development and implementation of the strategic plan under section 1491h of this title, and other policies and procedures of general applicability pertaining to the provision of family support for families of children with disabilities in the State.

(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this subchapter.

(4) Family involvement

A description of the following:

(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

(C) Strategies and special outreach activities that will be undertaken to ensure the active involvement of families of children with disabilities who are members of underserved and underserved populations.

(D) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

(5) Agency involvement

A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

(6) State resources

A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

(7) Unmet needs

A description of unmet needs for family support for families of children with disabilities within the State.

(8) Preliminary plan

A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this subchapter.

(9) Activities

An assurance that, except for the first year of the grant, the State shall expend not less

than 65 percent of the funds made available to a State under this subchapter for grants and contracts to conduct the activities described in section 1491g of this title.

(10) Limit on administrative costs

An assurance that the lead entity that receives funding under this subchapter in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

(11) Strategic plan

A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 1491h of this title.

(12) Evaluation

An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 1491i of this title.

(13) Coordination with State and local councils

An assurance that the lead entity will coordinate the activities funded through a grant made under this subchapter with the activities carried out by other relevant councils within the State.

(14) Supplement other funds

An assurance, with respect to amounts received under a grant, of the following:

(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

(15) Other information and assurances

Such other information and assurances as the Secretary may reasonably require.

(Pub. L. 91-230, title VI, §705, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3944.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491e, 1491f, 1491j of this title.

§ 1491e. Designation of lead entity

(a) Designation

The Chief Executive Officer of a State that desires to receive a grant under section 1491c of this title, shall designate the office or entity (referred to in this subchapter as the “lead entity”) responsible for—

(1) submitting the application under section 1491d of this title on behalf of the State;

(2) administering and supervising the use of the amounts made available under the grant;

(3) coordinating efforts related to and supervising the preparation of the application;

(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this subchapter.

(b) Qualifications

In designating the lead entity, the Chief Executive Officer may designate—

- (1) an office of the Chief Executive Officer;
- (2) a commission appointed by the Chief Executive Officer;
- (3) a public agency;
- (4) a council established under Federal or State law; or
- (5) another appropriate office, agency, or entity.

(c) Capabilities of lead entity

The State shall provide, in accordance with the requirements of section 1491d of this title, evidence that the lead entity has the capacity—

- (1) to promote a statewide system of family support for families of children with disabilities throughout the State;
- (2) to promote and implement systems change activities;
- (3) to maximize access to public and private funds for family support services for families of children with disabilities;
- (4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;
- (5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;
- (6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and
- (7) to promote and develop interagency coordination and collaboration.

(Pub. L. 91-230, title VI, §706, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3946.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491b, 1491f of this title.

§ 1491f. State Policy Council for family support for families of children with disabilities

(a) Designation or establishment

A State that desires to receive financial assistance under this subchapter shall, prior to the receipt of funds under this subchapter, designate

an existing Council, or establish a new Council, to be considered as a State Policy Council for Families of Children with Disabilities.

(b) Use of existing Council

(1) In general

To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

(2) Requirements

An existing Council shall—

(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (d)(1) of this section, adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (e) through (h) of this section.

(3) Documentation of compliance

Any State that has an existing Council shall include in a grant application submitted under section 1491d of this title and in subsequent annual progress reports submitted to the Secretary under section 1491i of this title, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

(c) Appointments to new Council

(1) Members

To the extent that a State establishes a new Council, members of the new Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (d) of this section. The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this subchapter. The appointing authority shall ensure that the membership of the new Council reasonably represents the population of the State and shall establish guidelines for the terms of the members of the new Council.

(2) Chairperson

The new Council shall elect a member of the new Council to serve as the Chairperson of the new Council. The Chairperson shall be a family member, as described in subsection (d)(1) of this section.

(d) Composition

The new Council shall be composed of—

(1) a majority of members who are—

(A) individuals who are family members of children with disabilities, are eligible for

family support, and represent the diversity of families within the State, including those families from unserved and underserved populations; and

(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

(2) members—

(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities, and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

(3) such additional members as the appointing authority considers appropriate.

(e) Functions

The new Council shall—

(1) establish formal policies regarding the operation of the new Council;

(2) advise and assist the lead entity in the performance of responsibilities described in section 1491e(a) of this title, particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 1491h of this title, including—

(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

(B) the statement of family-centered outcomes;

(C) the goals, objectives, and activities;

(D) the quality improvement or quality enhancement system;

(E) the appeals process;

(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this subchapter;

(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

(5) advise and assist the lead entity in the implementation of systems change activities;

(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

(8) advise and assist the lead entity in the identification of Federal and State barriers

that impede the development of a statewide system of family support for families of children with disabilities; and

(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

(f) Hearings and forums

The new Council is authorized to hold such hearings and forums as the new Council may determine to be necessary to carry out the duties of the new Council.

(g) Conflict of interest

No member of the new Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

(h) Compensation and expenses

The new Council may, consistent with State law, use such resources to reimburse members of the new Council for reasonable and necessary expenses of attending the new Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the new Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

(Pub. L. 91-230, title VI, § 707, as added Pub. L. 103-382, title III, § 315, Oct. 20, 1994, 108 Stat. 3946.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491b, 1491d of this title.

§ 1491g. Authorized activities

(a) In general

A State that receives a grant under section 1491c of this title may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 1491a of this title, such as the following activities:

(1) Training and technical assistance

The State may support training and technical assistance activities for family members, service providers, community members, professionals, members of the Council, students and others that will do the following:

(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

(B) Promote partnerships with families of children with disabilities at all levels of the service system.

(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

(D) Assist families of children with disabilities in accessing natural¹ and community

¹ So in original. Probably should be “national”.

supports and in obtaining benefits and services.

(2) Interagency coordination

The State may support activities that conduct the following:

(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

(3) Local or regional councils

The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

(4) Outreach

The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

(5) Policy studies

The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

(6) Hearings and forums

The State may conduct hearings and forums to solicit input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

(7) Public awareness and education

The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policymakers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

(8) Needs assessment

The State may conduct a needs assessment, which may, in part, be based on existing State data.

(9) Program data

The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

(10) Pilot demonstration projects

The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

(11) Other activities

The State may support other systems change activities that accomplish the purposes described in section 1491a of this title.

(b) Special rule

In carrying out activities authorized under this subchapter, a State shall ensure that such programs and activities address the needs of families who are economically disadvantaged.

(Pub. L. 91-230, title VI, §708, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3949.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491a, 1491d of this title.

§ 1491h. Strategic plan

(a) In general

Not later than 6 months after the date on which assistance is received by a State under this subchapter, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this subchapter.

(b) Contents

The strategic plan shall include—

(1) a statement of the mission, purpose, and principles of the statewide system of family

support for families of children with disabilities in the State;

(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

(5) a description of the specific programs, projects, and activities funded under this subchapter and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the provision of family support services to the family or to the child with a disability;

(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this subchapter that includes all eligible families;

(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 1491i of this title.

(c) Period and updates

The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

(d) Recommendations

Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to

reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

(e) Comment

The State shall develop a procedure for ensuring ongoing comment from the Council.

(f) Dissemination

The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

(g) Construction

Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

(Pub. L. 91-230, title VI, §709, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3951.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491d, 1491f, 1491k of this title.

§ 1491i. Progress criteria and reports

(a) Guidelines

The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 1491c of this title is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this subchapter.

(b) Progress reports

A State that receives a grant under section 1491c of this title shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this subchapter. Such report shall include—

(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

(Pub. L. 91-230, title VI, §710, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3952.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491d, 1491f, 1491h, 1491j of this title.

§ 1491j. Administrative provisions**(a) Evaluation of grant applications****(1) Panels**

The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this subchapter.

(2) Composition of panels

Panels shall be composed of a majority of family members of children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

(3) Expenses and fees of the Panel

A member of the Panel who is not a Federal employee shall receive travel, per diem and consultant fees not to exceed the rate provided to other consultants used by the Secretary. The Secretary may use funds available under section 1491o of this title to pay expenses and fees of a member of a Panel who is not a Federal employee.

(b) Provision of information

To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

(c) Appeals

The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this subchapter as the result of failure to supply information required under section 1491d or 1491i of this title. The Secretary shall take into consideration the comments of the Council.

(d) Effect on other assistance

This subchapter may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

(e) Unobligated funds

Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

(Pub. L. 91-230, title VI, §711, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3952.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1491o of this title.

§ 1491k. Technical assistance**(a) In general**

The Secretary shall make grants, or enter into contracts or cooperative agreements, with ap-

propriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

(b) Purpose

With respect to States receiving assistance under this subchapter, the technical assistance and information described under subsection (a) of this section shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance under this subchapter. Such technical assistance and information shall—

(1) facilitate effective systems change activities;

(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

(3) promote partnerships with families at all levels of the service system;

(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 1491h(b)(2) of this title, and the assessment of family satisfaction; and

(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

(c) Request for technical assistance

A request for technical assistance by a lead entity in a State receiving assistance under this subchapter shall be made in conjunction with the Council.

(d) Reports to Secretary

An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support

to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 1491a of this title in other Federal legislation.

(Pub. L. 91-230, title VI, § 712, as added Pub. L. 103-382, title III, § 315, Oct. 20, 1994, 108 Stat. 3953.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491l, 1491o of this title.

§ 1491l. Evaluation

(a) In general

The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this subchapter.

(b) Purpose

The purpose of an evaluation under subsection (a) of this section shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this subchapter, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this subchapter that are necessary to assist States to fully accomplish the purposes of this subchapter. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this subchapter on—

- (1) families of children with disabilities, including families from ethnic and racial minority backgrounds;
- (2) access to and funding for family support for families of children with disabilities; and
- (3) the involvement of families at all levels of the service system.

(c) Report to Congress

Not later than 2½ years after October 20, 1994, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

(d) Conflict of interest

The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 1491k of this title.

(Pub. L. 91-230, title VI, § 713, as added Pub. L. 103-382, title III, § 315, Oct. 20, 1994, 108 Stat. 3954.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1491o of this title.

§ 1491m. Projects of national significance

(a) Study by Secretary

The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 1491a of this title.

(b) Demonstration and innovation projects

The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities.

(Pub. L. 91-230, title VI, § 714, as added Pub. L. 103-382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1491o of this title.

§ 1491n. Construction

Notwithstanding any other provision of this chapter, nothing in subchapters I through VIII of this chapter shall be construed to apply to this subchapter.

(Pub. L. 91-230, title VI, § 715, as added Pub. L. 103-382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955.)

§ 1491o. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter, \$10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

(b) Reservation

(1) In general

Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or \$600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) of this section to carry out—

(A) section 1491k of this title, with respect to the provision of technical assistance and information to States;

(B) section 1491l of this title, with respect to the conduct of the evaluations;

(C) section 1491j(a) of this title, with respect to the evaluation of grant applications; and

(D) section 1491m of this title, with respect to the conduct of projects of national significance.

(2) Special rule

The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry

out section 1491m of this title for such year if the amount of funds reserved under such paragraph for such fiscal year is \$700,000 or greater.

(Pub. L. 91-230, title VI, §716, as added Pub. L. 103-382, title III, §315, Oct. 20, 1994, 108 Stat. 3955.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1491c, 1491j of this title.

CHAPTER 34—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sec.

- 1501. Congressional statement of policy.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3441 of this title.

§ 1501. Congressional statement of policy

The Congress hereby affirms that library and information services adequate to meet the needs of the people of the United States are essential to achieve national goals and to utilize most effectively the Nation's educational resources and that the Federal Government will cooperate with State and local governments and public and private agencies in assuring optimum provision of such services.

(Pub. L. 91-345, §2, July 20, 1970, 84 Stat. 440.)

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-95, §1, Aug. 14, 1991, 105 Stat. 479, provided that: "This Act [amending sections 1502 to 1506 of this title] may be cited as the 'National Commission on Libraries and Information Science Act Amendments of 1991'."

SHORT TITLE

Section 1 of Pub. L. 91-345 provided: "That this Act [enacting this chapter] may be cited as the 'National Commission on Libraries and Information Science Act'."

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Pub. L. 100-382, Aug. 8, 1988, 102 Stat. 898, authorized President to call and conduct a White House Conference on Library and Information Services to be held not earlier than Sept. 1, 1989, and not later than Sept. 30, 1991, to develop recommendations for the further improvement of the library and information services of

the Nation and their use by the public, with a final report of the Conference to be submitted to the President not later than 120 days following the close of the Conference and to be made public and transmitted to the Congress together with a statement of the President containing the recommendations of the President with respect to such report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

§ 1502. Establishment

(a) Independent agency within executive branch

There is hereby established as an independent agency within the executive branch, a National Commission on Libraries and Information Science (hereinafter referred to as the "Commission").

(b) Repealed. Pub. L. 102-95, §2, Aug. 14, 1991, 105 Stat. 479

(Pub. L. 91-345, §3, July 20, 1970, 84 Stat. 440; Pub. L. 102-95, §2, Aug. 14, 1991, 105 Stat. 479.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-95 struck out subsec. (b) which related to provision of administrative services for Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 1503. Contributions

The Commission is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Commission.

(Pub. L. 91-345, §4, July 20, 1970, 84 Stat. 441; Pub. L. 102-95, §3, Aug. 14, 1991, 105 Stat. 479.)

AMENDMENTS

1991—Pub. L. 102-95 amended section generally. Prior to amendment, section read as follows: "The Commission shall have authority to accept in the name of the United States grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified."

§ 1504. Functions and powers

(a) Advice to President and Congress; studies and surveys; plans; annual report

The Commission shall have the primary responsibility for developing or recommending overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 1501 of this title. In carrying out that responsibility, the Commission shall—

- (1) advise the President and the Congress on the implementation of national policy by such statements, presentations, and reports as it deems appropriate;